GOVERNMENT OF MYSORE

LEGISLATIVE DEPARTMENT

THE MYSORE CODE

IN FOUR VOLUMES

VOLUME I

UNREPEALED MYSORE ACTS

1850-1920

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PREFACE

THIS edition of the Mysore Code contains all unrepealed Mysore enactments from the year 1850 till the end of December, 1954. It consists of four volumes. Volume I contains the Acts from 1850 to 1920; Volume II the Acts from 1921 to 1944; Volume III the Acts from 1945 to 1950 and Volume IV the Acts from 1951 to 1954.

2. The Acts included in this edition are printed as modified up to the end of December 1954. The modifications made by the Mysore Adaptation of Laws Order, 1953, issued under section 54 of the Andhra State Act, 1953, (Central Act 30 of 1953) have also been carried out.

3. This edition is issued in the style of a loose leaf binder in order to make it easier to replace the corrected pages and keep the copy up-to-date. The pages of each volume are numbered separately. Whenever changes are made hereafter by any repealing or amending enactment, replacement pages will be issued embodying such changes for insertion at the appropriate places in the four volumes.

4. The enactments which are in force in Bellary District by virtue of section 53 of the Andhra State Act, 1953, have not been included in this edition. Amending Acts which make textual amendments to the principal Acts have also been omitted except those which amend Central Acts.

5. The enactments have been printed in chronological order. A chronological table is prefixed to each volume showing the short titles of the enactments contained therein and the manner in which each enactment has been affected by later legislation. An alphabetical index of Acts included in the volume is annexed at the end of each volume.

M. SADASIVAYYA,

BANGALORE,
Dated 1st February 1955.

Additional Secretary to Government for Revision of State Laws.

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THE MYSORE CODE

VOLUME I

(*Unrepealed Mysore Acts from the year* 1850 *to* 1920.)

MYSORE ACT No. XIX OF 1850[1].

THE APPRENTICES ACT, 1850[2].

CONCERNING THE BINDING OF APPRENTICES.

For better enabling children, and especially orphans and poor children brought up by public charity, to learn trades, crafts and employments, by which, when they come to full age, they may gain a livelihood; it is enacted as follows:— Preamble.

1. Any child, above the age of ten, and under the age of eighteen years, may be bound apprentice by his or her father or guardian to learn any fit trade, craft or employment, for such term as is set forth in the contract of apprenticeship, not exceeding seven years, so that it be not prolonged beyond the time when such child shall be of the full age of twenty-one years, or, in the case of a female, beyond the time of her marriage. Apprenticing of child between 10 and 18 years old.

2. The age set forth in the contracts shall be evidence of the age of the child, in all questions which arise as to the right of the master to the continuance of the service. Evidence of age in question as to right to service.

3. Any Magistrate or Justice of the Peace may act with all the powers of a guardian under this Act, on behalf of any orphan, or poor child abandoned by its parents, or of any child convicted before him, or any other Magistrate, of vagrancy, or the commission of any petty offence, [or required to find security for good behaviour[3]]. Powers of Magistrate or Justice acting for orphans, etc.

1. The Act was extended to Mysore by the Governor-General in Council by Notification No. 121—J. dated the 12th August 1875 of the Government of India in the Foreign Departments, the operation of the Act being limited to European and Eurasian Children.

2. Short tittle given by Mysore Act VIII of 1949.

3. These words have been added as directed by Notifieation No. 121—J, dated the 12th August 1875.

Apprenticing of child brought up by public charity.

4. An orphan or poor child, brought up by any public charity, may be bound apprentice by the Governors, Directors, or Managers thereof, as his or her guardians for this purpose.

5. }
6. } *Omitted as directed by Notification No.* 121—*J., dated the* 12*th August* 1875.
7. }

Form and contents of contract of apprenticeship.

8. Every contract of apprenticeship shall be in writing, according to the form given in the Schedule (A) annexed to this Act, or to the like effect, which shall set forth the conditions agreed upon particularly specifying the age of the apprentice, the term for which he is bound, and what he is to be taught.

Signature to contract.

9. Every such contract shall be signed by the person to whom the apprentice is bound, and by the person by whom he is bound, and by the apprentice, when he is of the age of fourteen years or more at the time of binding; but, when the apprentice is bound by the Governors, Directors or Managers of a Public Charity, the signature of two of them, or of their Secretary or Officer, shall be sufficient on behalf of the persons binding the apprentice.

Contract not valid unless executed as prescribed and deposited.

Copies to be given to parties.

10. No such contract shall be valid unless it be executed in the manner aforesaid, not until it has been deposited in the Office of the Chief Magistrate of the place or district where it has been executed; [1] and the person in whose office any such contract is deposited shall give to each of the parties a copy thereof, certified under his hand, which certified copies shall be received as evidence of the contract, without formal proof of the handwriting of the Magistrate [1].

Alteration of terms of service and termination of contract.

11. The terms of service may be changed at any time during the apprenticeship, or the contract may be determined, with the consent of both parties to the contract or their personal representatives, and with the consent of the apprentice, if he is above the age of fourteen years: Provided that the changes agreed to or the termination of the contract shall be expressed in writing on the original contract with the signature of the proper parties according to section 9 [2] of this Act; and the Magistrate [1] shall thereupon make under his hand corresponding endorsements on the office copies, which shall be brought to him at the same time for that purpose.

1. Certain words have been omitted as directed by Notification No. 121—J., dated the 12th August 1875.
2. The figure "9" has been substituted for the figure "8" as directed by *ibid.*

Assignment of apprentice to new master.

12. The master of any apprentice bound under this Act may, with the consent of the person by whom he was bound, and with the consent of the apprentice, if he is above the age of fourteen years, assign such apprentice to any other person, who is willing to take him for the residue of his apprenticeship, and subject to the conditions thereof: Provided that such person shall, by endorsement under his own hand on the contract, declare his acceptance of such apprentice, and acknowledge himself bound by the agreements and covenants therein mentioned, to be performed on the part of the master, and that the consent of the other parties aforesaid shall be expressed in writing on the same, and signed by them respectively : And every such assignment shall be certified on the office copies of the contract under the hand of the Magistrate [1] according to the form given in Schedule (B) annexed to this Act.

Powers of Magistrate in case of complaint by apprentice against master

13. Upon complaint made to any Magistrate [1] by or on behalf of any apprentice bound under this Act, of refusal or neglect to provide for him, or to teach him according to the contract of apprenticeship, or of cruelty, or other ill-treatment by his master, or by the agent under whom he shall have been placed by his master, the Magistrate may summon the master or his agent, as the case may be, if he shall be within his jurisdiction, to appear before him at a reasonable time, to be stated in the summons, to answer the complaint ;

and at such time, whether the master or his agent be present or not (service of the summons being proved), may examine into the matter of the complaint ; and, upon proof thereof, may cancel the contract of apprenticeship, and assess upon the offender, whether he shall be the master or his agent, a reasonable sum for behoof of the apprentice, not exceeding four times the amount of the premium paid upon the binding, or if no premium, or a less premium than fifty rupees was paid, not exceeding two hundred rupees ;

and, if the offender shall not pay the sum so assessed, may levy the same by distress and sale of his goods and chattels, and, if the offender shall not be the master but his agent, by distress and sale of the goods and chattels of the master also.

1. Certain words have been omitted as directed by Notification No. 121—J., dated the 12th August 1875.

Power of master or his agent to chastise apprentice.

14. No contract of apprenticeship shall be cancelled, nor shall any master or his agent be liable to any criminal proceeding, on account of such moderate chastisement for misbehaviour, given to any apprentice by his master or the agent of his master, as may lawfully be given by a father to his child; and the provision for enabling the contract of apprenticeship to be cancelled shall not bar any criminal proceeding against any master or his agent for an assault or other offence committed against his apprentice, for which he would be liable to be punished, had it been against his child, whether or not any proceedings be taken for cancelling the contract of apprenticeship.

Power of Magistrate in case of complaint by master against apprentice.

15. Upon complaint made to any Magistrate, by or on behalf of the master of any apprentice bound to him under this Act, of any ill-behaviour of such apprentice, or if such apprentice shall have absconded, the Magistrate may issue his warrant for apprehending such apprentice, and may hear and determine the complaint, and punish the offender by an order for keeping the offender, if a boy, in confinement in any debtor's prison or other suitable place not being a criminal jail, for any time not exceeding one month, of which one week may be in a solitary confinement, during which time such allowance shall be made for his subsistence by the master or his agent as the Magistrate shall order; and, if the offender be a boy of not more than fourteen years of age, may order him to be privately whipped: or, if the offender be a girl, or in the case of any boy, the Magistrate deem any such punishment unfit, he may pass an order empowering the master of the apprentice or his agent to keep the offender in close confinement in his own house, [1] upon bread and water, or such other plain food as may be given without injury to the health of the apprentice, for a period not exceeding one month.

Cancelment of contract for misconduct of apprentice.

16. Upon complaint of wilful and repeated ill-behaviour on the part of the apprentice, and on the demand of the master, the Magistrate may order the contract of apprenticeship to be cancelled whether or not the charge is proved; but only with the consent of the apprentice and of his father or guardian, if the charge is not proved; and such cancelling shall be with or without refund of the whole or part of any premium that may have been paid

1. Certain words have been omitted as directed by notification No. 121—J., dated the 12th August 1875.

to the master on binding such apprentice, as to the Magistrate seems fit on consideration of the case; and all sums so refunded shall be applied under the direction of the Magistrate for behoof of the apprentice.

Appropriation of sum recovered from apprentice on cancelment of contract.

17. The Magistrate may order any sum recovered for behoof of the apprentice on cancelling the contract to be either laid out in binding him to another master, or otherwise for his benefit, or to be paid to the person by whom any premium was paid when he was bound apprentice.

Limitation of complaint of master against apprentice, of apprentice against master.

18. No Magistrate shall entertain a complaint on the part of a master against an apprentice under this Act, unless it be brought within one month after the cause of complaint arose; [1] and no Magistrate shall entertain a complaint on the part of an apprentice against his master or the agent of his master under this Act unless it be brought within three months after the cause of complaint arose. [1]

Effect of death of master during apprenticeship.

19. If the master of any apprentice shall die before the end of the apprenticeship, the contract of apprenticeship shall be thereby determined; and a proportionate part, corresponding to the unexpired portion of the term, of any premium, which shall have been paid to such master on the binding of the apprentice to him, shall be returned by the [2] [legal representatives] out of the estate of the deceased to the person or persons who shall have paid the same; unless the [2] [legal representatives] of the deceased master shall continue the business in which such apprentice shall have been employed, and shall, within three months from the death of the late master, make offer in writing to keep the apprentice on the terms of the original contract; in which case the estate of the deceased shall be discharged from all liabilities on account of such premium.

Offer by representative of master to continue apprenticeship.

Offer to be certified on original contract and copies.

20. If such offer to keep the apprentice shall be made as aforesaid, the same shall be fully expressed and certified by the [2] [legal representatives] on the original contract of apprenticeship, and also on the office copies thereof, by the Magistrate [3]; and the apprentice shall be bound to the [2] [legal representatives] so keeping him for the remaining term of his apprenticeship.

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1. Certain words have been omitted as directed by Notification No. 121–J., dated the 12th August 1875.
2. These words have been substituted as directed by *ibid.*
3. The words " or Registering Officer " have been omitted as directed by *ibid.*

(*Schedule A.*)

Maintenance of apprentice whose master dies.

Apprentice to continue to serve.

21. Any apprentice bound under this Act, whose master shall die during the apprenticeship, shall be entitled to maintenance, for three months from and after the death of his master, out of the assets left by him : Provided that during such three months such apprentice shall continue to live with, and serve as an apprentice, the [1] [legal representatives] of such master, or such person as they shall appoint.

22. *Omitted as directed by Notification No.* 121—*J., dated the* 12*th August* 1875.

23. *Omitted as directed by Notification No.* 121—*J., dated the* 12*th August* 1875.

Appeal from orders of Magistrates.

24. An appeal shall lie from any order passed by any Magistrate [2] to the Court of Session to which such Magistrate is subordinate, provided the appeal is made within one month from the date of the order.

Interpretation of terms.

25. In this Act the words "master", "owner", "person" and the pronoun "he" shall be understood to include several persons as well as one person, and females as well as males, and bodies corporate as well as individuals, unless there is something in the context repugnant to such construction.

SCHEDULE A.

Form of Agreement.

This Agreement made the day of in the year between A. B. of and C. D. of witnesseth that the said A. B. doth this day bind E. F. a boy (or girl) of the age of years completed, son (or daughter) of the said A. B. (or otherwise describing the relation in which A. B. and E. F. stand), to dwell with and serve the said C. D. as an apprentice, from this day forth for years (in the case of a girl add, or until the time of her marriage, which shall first happen), during all which term the said apprentice shall duly and faithfully serve the said C. D. according to his (or her) skill and ability in all lawful business, and demean and behave himself (or herself) honestly, orderly and obediently, in all things toward the said C. D. and his (or her) family. And the said C. D. for himself (or herself) and his (or her) [1] [legal representatives,] [in consideration of the premium or sum of paid by the

1. These words have been substituted as directed by Notification No. 121—J, dated the 12th August 1875.
2. Certain words have been omitted as directed by *ibid.*

(*Schedules A and B*)

said A. B. to the said C. D. the receipt whereof the said C. D. hereby acknowledges, and] of the faithful service of the said E. F., doth covenant and agree with the said A. B., his (or her) [1][legal representatives,] that he (or she) will teach or cause to be taught to the said E. F. in the best way and manner that he (or she) can, the trade (craft or employment) of a during the said term ; and will also, during the said term, find and allow unto the said apprentice good, wholesome and sufficient food, clothes, lodging, washing and all other things necessary, fit and reasonable for an apprentice : (and further, *here insert any special covenants*).

If there is no premium, the words between brackets may be omitted.

In witness whereof the parties have hereunto set their hands [2]the day and year above written.

A. B. [2]
C. D. [2]

SCHEDULE B.

Form of Order of Assignment.

(To be endorsed on the Agreement.)

Be it known to all men that on the day of in the year personally appeared before G. H., Magistrate of C. D. of with E. F., his (or her) apprentice, and J. K., of , and desired that the agreement of apprenticeship, whereby the said E. F. was bound to the said C. D., might be assigned and made over to the said J. K., and the said G. H., having satisfied himself, by personal examination of the said E. F., and by other lawful ways and means, that such assignment is for the benefit of the said E. F., and is made with the consent of [the said E. F. and of] all persons whose consent thereunto by a law is required, doth allow such assignment ; and the contract of apprenticeship whereby the said E. F. was on the day of in the year bound to the said C. D. as an apprentice to learn the trade (craft or employment of a shall henceforth endure unto the end of the said term, as if the said J. K. had been originally party to the said deed, and had executed the same, in the place and stead of the said C. D., and shall be bound, for himself (or herself), his (or her) [1][legal representatives,] to fulfil the covenants by the said C. D. to be performed, and the said E. F. shall henceforth be bound unto the said J. K. in like manner as he (or she) was by the said agreement bound unto the said C. D.

If E. F., is not above the age of fourteen years, the words between brackets may be omitted.

C. D. E. F. J. K.

In witness whereof the said C. D. E. F. and J. K. have hereunto set their hands before me the day and year above written.

G. H.
Magistrate.

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1. These words have been substituted as directed by Notification No 121—J dated the 12th August 1875.
2. Certain words and letters have been omitted as directed by Notification No. 121—J, dated the 12th August 1875.

MYSORE ACT No. XXI OF 1866.*

THE NATIVE CONVERTS' MARRIAGE DISSOLUTION ACT, 1866.

An Act to legalize, under certain circumstances, the dissolution of marriages of Native Converts to Christianity.

Preamble. WHEREAS it is expedient to legalize, under certain circumstances, the dissolution of marriages of Native Converts to Christianity deserted or repudiated, on religious grounds, by their wives or husbands; it is enacted as follows :—

Short title. **1.** This Act may be cited as The Native Converts' Marriage Dissolution Act, 1866.

2. [*Commencement of Act.*] *Repealed by Act XVI of* 1874.

Interpretation clause. **3.** In this Act :—

"Native husband." "Native husband" shall mean a married man domiciled in[1] [the State of Mysore except Bellary District,] who shall have completed the age of sixteen years, and shall not be a Christian, a Muhammadan nor a Jew:

"Native wife." "Native wife" shall mean a married woman domiciled in[1] [the State of Mysore except Bellary District,] who shall have completed the age of thirteen years, and shall not be a Christian, a Muhammadan nor a Jewess:

"Native law." "Native law" shall mean any law, or custom having the force of law, of any persons domiciled in [1][the State of Mysore except Bellary District,] other than Christians, Muhammadans and Jews:

"Month" and "year." "Month" and "year" shall respectively mean month and year according to the British calendar:

"High Court." "High Court" shall mean the highest Civil Court of appeal in any place to which this Act extends:

Number. And unless there be something repugnant in the subject or context, words importing the singular number shall

* This Act was extended to Mysore by the Viceroy and Governor-General in Council by notification of the Government of India, Foreign Department, Judicial No, 58 I. J, dated the 14th February 1881.

1. See the Mysore Adaptation of Laws Order, 1956.

include the plural, and words importing the plural number shall include the singular.

When convert deserted by his wife may sue for conjugal society.

4. If a Native husband change his religion for Christianity, and if in consequence of such change his Native wife, for the space of six continuous months, desert or repudiate him, he may sue her for conjugal society.

When convert deserted by her husband may sue.

5. If a Native wife change her religion for Christianity, and if in consequence of such change her Native husband, for the space of six continuous months, desert or repudiate her, she may sue him for conjugal society.

Court in which suit shall be brought.

6. If the respondent, at the time of commencement of such suit, reside within the local limits of the ordinary original civil jurisdiction of any of the High Courts of Judicature, the suit shall be commenced in such Court: otherwise it shall be commenced in the principal Civil Court of original jurisdiction of the district in which the defendant shall reside at the commencement of the suit.

Suit to be commenced by verified petition.

7. The suit shall be commenced by a petition in the form in the first schedule to this Act, or as near thereto as the circumstances of the case will allow.

The statements made in the petition shall be verified by the petitioner in the manner required by law for the verification of plaints; and the petition may be amended by permission of the Court.

On service of petition, citation to respondent.

8. A copy of the petition shall be served upon the respondent, and the Court shall thereupon issue a citation under the seal of the Court and signed by the Judge.

Form of citation.

9. In ordinary cases the citation shall be in the form in the second schedule to this Act, or as near thereto as the circumstances of the case will allow.

But where the respondent is exempt by law from personal appearance in Court, or where the Judge shall so direct, the citation shall be in the form in the third schedule to this Act, or as near thereto as the circumstances of the case will allow.

Service of citation.

10. A copy of the citation sealed with the seal of the Court shall be served on the respondent; and the provisions of the Code of Civil Procedure as to the service and endorsement of summonses shall apply, *mutatis mutandis*, to citations under this Act.

Penalty on respondent not obeying citation.

11. If the respondent shall not obey such citation, and comply with every other requirement made upon her or him under the provisions of this Act, she or he shall be liable to punishment under section 174 of the Indian Penal Code.

Points to be proved on appearance of petitioner.

12. On the day fixed in the citation the petitioner shall appear in Court, and the following points shall be proved—

(1) The identity of the parties:

(2) The marriage between the petitioner and the respondent:

(3) That the male party to the suit has completed the age of sixteen years, and that the female party to the suit has completed the age of thirteen years:

(4) The desertion or repudiation of the petitioner by the respondent:

(5) That such desertion or repudiation was in consequence of the petitioner's change of religion:

(6) And that such desertion or repudiation had continued for the six months immediately before the commencement of the suit.

First interrogation of respondent.

13. The respondent, if such points be proved to the satisfaction of the Judge, shall thereupon be asked whether she or he refuses to cohabit with the petitioner, and, if so, what is the ground of such refusal.

In ordinary cases such interrogation and every other interrogation prescribed by this Act shall be made by the Judge; but when the respondent is exempt by law from personal appearance in Court, or when the Judge shall, in his discretion, excuse the respondent from such appearance, the interrogations shall be made by commissioners acting under such commission as hereinafter mentioned.

Interrogations by Judge may be public or private.

14. Every interrogation mentioned in this Act and made by the Judge may, at the discretion of the Judge, take place in open Court or in his private room.

If any such interrogation take place in open Court, the Judge may, so long as it shall continue, exclude from the Court all such persons as he shall think fit to exclude.

15. If the respondent be a female, and in answer to the interrogatories of the Judge or commissioners, as the case may be, shall refuse to cohabit with the petitioner, the Judge, if upon consideration of the respondent's answers and of the facts which may have been proved by the petitioner he shall be of opinion that the ground for such refusal is the petitioner's change of religion, shall make an order adjourning the case for a year, and directing that, in the interim, the parties shall, at such place and time as he shall deem convenient have an interview of such length as the Judge shall direct, and in the presence of such person or persons (who may be a female or females) as the Judge shall select, with the view of ascertaining whether or not the respondent freely and voluntarily persists in such refusal.

Procedure when female respondent refuses to cohabit with petitioner.

Adjournment for a year.

Interview.

16. At the expiration of such adjournment the petitioner shall again appear in Court and shall prove that the said desertion or repudiation had continued up to the time last hereinbefore referred to; and if the points mentioned in section 12 and this section of this Act shall be proved to the satisfaction of the Judge, and if the respondent on being interrogated by the Judge or commissioners, as the case may be, again refuse to cohabit with the petitioner, the respondent shall be taken to have finally deserted or repudiated the petitioner; and the Judge shall, by a decree under his hand and sealed with the seal of his Court, declare that the marriage between the parties is dissolved.

Procedure on expiration of adjournment.

Interrogation of respondent.

Decree.

17. If the respondent be a male, and in answer to the interrogatories of the Judge or commissioners, as the case may be, shall refuse to cohabit with the petitioner, the Judge, if upon consideration of the respondent's answers and of the facts which may have been proved by the petitioner he shall be of opinion that the ground for such refusal is the petitioner's change of religion, shall adjourn the case for a year.

Decree in case of male respondent refusing to cohabit on the ground of petitioner's change of religion.

At the expiration of such adjournment, the petitioner shall again appear in Court; and if the respondent on being interrogated by the Judge or commissioners, as the case may be, again refuse to cohabit with the petitioner, the Judge, shall thereupon pass such a decree as last aforesaid:

Provided that, if the petitioner shall so desire (but not otherwise), the proceedings in the suit shall, *mutatis mutandis*, be the same as in the case of a female respondent.

Proviso.

Decree if respondent so refuse in case of unconsummated marriage, either party being *impubes* at the time of marriage.

18. Notwithstanding anything hereinbefore contained, if it shall appear at any stage of the suit that both or either of the parties had not attained puberty at the date of their marriage, and that such marriage has not been consummated and if, in answer to the interrogatories made pursuant to section 13 of this Act, the respondent shall refuse to cohabit with the petitioner, and allege, as the ground for such refusal, that the petitioner has changed his or her religion, the Judge shall thereupon pass such a decree as last aforesaid.

Liberty to parties to marry again.

19. When any decree dissolving a marriage shall have been passed under the provisions of this Act, it shall be as lawful for the respective parties thereto to marry again as if the prior marriage had been dissolved by death, and the issue of any such remarriage shall be legitimate, any Native law to the contrary notwithstanding :

Provided always that no minister of religion shall be compelled to solemnize the marriage of any person whose former marriage may have been dissolved under this Act, or shall be liable to any suit or penalty for refusing to solemnize the marriage of any such person.

Judge to order commission to issue for examination of exempted persons.

20. In suits instituted under this Act, the Judge shall order a commission to issue to such persons, whether males or females or both, as he shall think fit, for the examination on interrogatories or otherwise of any persons so exempt as aforesaid.

The provisions of the Code of Civil Procedure shall, so far as practicable, apply to commissions issued under this section.

Proof of marriage and desertion or repudiation of petitioner in consequence of conversion.

21. At any stage of a suit instituted under this Act, cohabitation as man and wife shall be sufficient presumptive evidence of the marriage of the parties, and proof of the respondent's refusal or voluntary neglect to cohabit with the petitioner, after his or her change of religion and after knowledge thereof by the respondent, shall be sufficient evidence of the respondent's desertion or repudiation of the petitioner, and shall also be sufficient evidence that such desertion or repudiation was in consequence of the petitioner's change of religion, unless some other sufficient cause for such desertion or repudiation be proved by the respondent.

Civil Procedure Code applied.

22. The provisions of the Code of Civil Procedure as to the summoning and examination of witnesses shall apply in suits instituted under this Act.

Dismissal of suit if either party under age required by Act, or if parties cohabiting, or respondent willing to cohabit.

23. If at any stage of the suit it be proved that the male party to the suit is or was at the institution thereof under the age of sixteen years, or that the female party to the suit is or was at the same time under the age of thirteen years, or that the petitioner and the respondent are cohabiting as man and wife, or the Court is satisfied by the evidence adduced that the respondent is ready and willing so to cohabit with the petitioner, the Court shall pass a decree dismissing the suit and stating the ground of such dismissal.

Revival of suit after such dismissal.

24. If, at any time within twelve months after a decree dismissing the suit upon any of the grounds mentioned in the last preceding section, the respondent again desert or repudiate the petitioner upon the ground of his or her change of religion, the suit may be revived by summoning the respondent; and upon proof of the former decree and of such renewed repudiation or desertion, the suit shall re-commence at the stage at which it had arrived immediately before the passing of such decree; and, after the proofs, interrogations, interview and adjournment which may then be requisite under the provisions hereinbefore contained, the Judge shall pass a decree of the nature mentioned in section 16 of this Act.

Petitioner's cruelty or adultery to bar suit.

25. If at any stage of the suit it be proved that the respondent has deserted or repudiated the petitioner solely or partly in consequence of the petitioner's cruelty or adultery, the Court shall pass a decree dismissing the suit and stating the ground of such dismissal.

A suit dismissed under this section shall not be revived.

Male petitioner's cohabitation with one of several wives to bar suit.

26. If the petitioner, being a male, has at the time of the institution of the suit two or more wives, he shall make them all respondents; and if at any stage of the suit it be proved that he is cohabiting with one of such wives as man and wife, or that any one of such wives is ready and willing so to cohabit with him, the Court shall pass a decree dismissing the suit and stating the ground of such dismissal.

The provisions as to revival contained in section 24 of this Act shall apply, *mutatis mutandis*, to a suit dismissed under this section.

Dissolution of marriage not to affect status or rights of children.

27. A dissolution of marriage under the provisions of this Act shall not operate to deprive the respondent's children (if any) by the petitioner of their status as legitimate children, or of any right or interest which they would have had, according to the Native law applicable to them by way of maintenance, inheritance or otherwise, in case the marriage had not been so dissolved as aforesaid.

Power to court to award alimony.

28. If a suit be commenced under the provisions of this Act, and it appear to the Court that the wife has not sufficient separate property to enable her to maintain herself suitably to her station in life and to prosecute or defend the suit, the Court may, pending the suit, order the husband to furnish the wife with sufficient funds to enable her to prosecute or defend the suit, and also for her maintenance pending the suit.

If the suit be brought by a husband against a wife, the Court may, by the decree, order the husband to make such allowance to his wife for her maintenance during the remainder of her life as the Court shall think just, and having regard to the condition and station in life of the parties.

Any allowance so ordered shall cease from the time of any subsequent marriage of the wife.

No appeal under Act; but Judge may state case raising question whether conversion has dissolved marriage.

29. No appeal shall lie against any order or decree made or passed by any Court in any suit instituted under this Act; but if, at any stage of the suit, the respondent shall allege by way of defence that the marriage between the parties has been dissolved by the conversion of the petitioner, and that consequently the petitioner is not a Native husband or a Native wife (as the case may be) within the meaning of this Act, the Judge, if he shall entertain any doubt as to the validity of such defence, shall, either of his own motion or on the application of the respondent, state the case and submit it with his own opinion thereon for the decision of the High Court.

Case to state necessary facts and documents, and suit to be stayed.

30. Every such case shall concisely set forth such facts and documents as may be necessary to enable the High Court to decide the questions raised thereby, and the suit shall be stayed until the judgment of such Court shall have been received as hereinafter provided.

Case to be decided by three Judges.

31. Every such case shall be decided by at least three Judges of the High Court, if such Court be the High Court at any of the presidency-towns; and the petitioner and

respondent may appear and be heard in the High Court in person or by advocate or vakil.

High Court may refer case to Judge for additions or alterations.

32. If the High Court shall not be satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby, the High Court may refer the case back to the Judge by whom it was stated, to make such additions thereto or alterations therein as the High Court may direct in that behalf.

High Court may decide question raised, and Judge shall dispose of case accordingly.

33. It shall be lawful for the High Court, upon the hearing of any such case, to decide the questions raised thereby, and to deliver its judgment thereon containing the ground on which such decision is founded;

and it shall send to the Judge by whom the case was stated a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Judge shall, on receiving the same, dispose of the case conformably to such judgment.

Saving of Roman Catholic marriages.

34. Nothing contained in this Act shall be taken to render invalid any marriage of a Native convert to Roman Catholicism if celebrated in accordance with the rules, rites, ceremonies and customs of the Roman Catholic Church.

Extent of Act.

35. This Act shall extend to all the territories that are or shall become vested in Her Majesty or Her successors by the Statutes 21 and 22 Vic., cap. 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore and Malacca.[1]

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1. Certain words repealed by Act XVI of 1874 before the present Act was extended to Mysore have been omitted.

(*I & II Schedules*)

THE FIRST SCHEDULE.

(*See* Section 7.)

Form of Petition.

Stamps Rs. 2.
(1)

To the Judge of the Civil Court of
The day of 18 ,

The petition of *A. B.* of
Sheweth :—

1. That your petitioner was born on or about the day of 18
2. That your petitioner was on the day of in the year 18 lawfully married to *C. D.* at
3. That the said *C. D.* is now of the age of years or thereabouts.
4. That after his said marriage, your petitioner lived and cohabited with his said wife at aforesaid until the day of 18.
5. That previous to the day of 18 your petitioner changed his religion for Christianity, and that on such day he was baptized and became a member of the Church of
6. That on the day of 18 [*at least six months prior to the date of the petition*], the said *C.D.* deserted your petitioner, and has not since resumed cohabitation with him.
7. That such desertion was in consequence of your petitioner's said change of religion.
8. That there is no collusion nor connivance between your petitioner and the said *C. D.*

Your petitioner therefore prays that your Honour will order the said *C.D.* to live and cohabit with your petitioner or declare that your petitioner's marriage is dissolved.

A. B.

Form of verification.

I, *A. B.*, the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

THE SECOND SCHEDULE.

(*See Section 9.*)

Form of Citation in ordinary cases.

Form of Citation in ordinary Cases.

To *C.D.* of

Whereas *A.B.* of , claiming to have been lawfully married to you, the said *C.D.* has filed his [*or* her] petition against you in the

[1] See Mysore Act III of 1900; Schedule II No. 9 according to which the fee payable is five rupees.

(II & III Schedules)

Civil Court of alleging that you, the said *C.D.* have deserted him [*or* her] for six months in consequence of his [*or* her] having changed his [*or* her] religion for Christianity and praying that, unless you consent to live and cohabit with him [*or* her], it may be declared that his [*or* her] marriage is dissolved : Now this is to command you that, at the expiration of days [*at least one month*] from the date of the service of this on you, you do appear in the said Court then and there to make answer to the said petition, a copy whereof, sealed with the seal of the said Court, is herewith served upon you.

And take notice that in default of your so appearing, you will be liable to punishment under section 174 of the Indian Penal Code.

Dated the day of 18 .

(Signed) *E.F.*,
Judge of the Civil Court of

Indorsement to be made after service.

This citation was duly served by G.H. on the within named *C.D.* of at on the day of 18 .

(Signed) *G.H.*

THE THIRD SCHEDULE.

(*See Section* 9.)

Form of Citation in Case of Respondent exempt from Appearance in Court.

To *C.D.* of

Whereas *A.B.* of , claiming to have been lawfully married to you, the said C.*D.*, has filed his [*or* her] petition against you in the Civil Court of , allegir g that you, the said *C.D.*, have deserted him [*or* her] for six months in consequence of his [*or* her] having changed his [*or* her] religion for Christianity, and praying that, unless you consent to cohabit with him [*or* her] it may be declared that his [*or* her] marriage is dissolved. Now this is to command you that, at the expiration of days [*at least one month*] from the service of this on you, you do hold yourself in readiness to answer and do answer such interrogatories as may be put to you by commissioners duly authorised in that behalf under a commission issued by this Court, in reference to the said petition, a copy whereof, sealed with the seal of the said Court, is herewith served upon you.

And take notice that, in default of your so holding yourself in readiness and answering such interrogatories, you will be liable to punishment under section 174 of the Indian Penal Code.

Dated the day of 18 .

(Signed) *E.F.*,
Judge of the Civil Court of

Indorsement to be made after service.

The citation was duly served by *G.H.* on the within-named *C.D.* of at on the day of 18 .

(Signed) *G.H.*

THE CATTLE TRESPASS ACT, 1871.

(ACT No. I OF 1871.)

Arrangement of Sections

CHAPTER I.

PRELIMINARY.

SECTIONS.

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2. Repeal of Acts.
3. Interpretation clause.

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5. Control of pounds.
Rates of charge for feeding impounded cattle.
6. Appointment of *ex-officio* pound-keepers.
Suspension or removal of pound-keepers.
Pound-keepers may hold other offices.
Pound-keepers to be public servants.
7. To keep registers and furnish returns.
8. To register seizures.
9. To take charge of and feed cattle.

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IMPOUNDING CATTLE.

10. Cattle damaging land.
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Deduction of fines and expenses.
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18. Application of fines and unclaimed proceeds of sales.
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22. Compensation for illegal seizure or detention.
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24. Penalty for forcibly opposing the seizure of cattle or rescuing the same.
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28. Application of fines recovered under sections 25, 26 or 27.

CHAPTER VII.

SUITS FOR COMPENSATION.

29. Savings of right to sue for compensation.
30. Set-off.

CHAPTER VIII.

SUPPLEMENTAL.

31. Power for Government of Mysore to transfer certain functions to local authority and direct credit of surplus receipts to local fund.

SCHEDULE :—Enactments repealed.

—

MYSORE ACT No. 1 OF 1871[1].

THE CATTLE TRESPASS ACT, 1871.

(*As amended by Acts VIII of 1892, IV of 1939, and XXXIV of 1951*).

An Act to consolidate and amend the law relating to Trespasses by Cattle.

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to trespasses by cattle; it is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Title and extent. [2][1. (1) This Act may be called the Cattle Trespass Act, 1871; and

(2) It extends to the [3][whole of the State of Mysore except Bellary District] except such local areas as the Government of Mysore, by notification in the Official Gazette, may from time to time exclude from its operation.

(3) The Government of Mysore may at any time, by notification in the Official Gazette, cancel or vary a notification under sub-section (2).

Repeal of Acts. 2. The Acts mentioned in the schedule hereto annexed are repealed.

References to repealed Acts. References to any of the said Acts in Acts passed subsequently thereto shall be read as if made to this Act.

All pounds established, pound-keepers appointed, and villages determined, under Act No. III of 1857 (*relating to trespasses by cattle*) shall be deemed to be respectively established, appointed and determined under this Act.]

Interpretation clause. 3. In this Act—

'officer of police' includes also village-watchman and

'cattle' includes also elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kids, [4][and

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1. Extended to Mysore by Notification of the Government of India, Foreign Department Judicial No. 558 J, dated 5th April 1872.
2. This section was substituted for the original s. 1 by Act VIII of 1892.
3. See the Mysore Adaptation of Laws Order 1953.
4. These words were added to s. 3 by Act VIII of 1892.

'local authority' means any body of persons for the time being invested by law with the control and administration of any matters within specified local area, and

'local fund' means any fund under the control or management of a local authority.]

[1]['Magistrate of the District' means the District Magistrate having jurisdiction over the District.]

CHAPTER II.

POUNDS AND POUND-KEEPERS.

Establishment of pounds.

4. Pounds shall be established at such places as the Magistrate of the District, subject to the general control of the [2][Local Government,] from time to time directs.

The village by which every pound is to be used shall be determined by the Magistrate of the District.

Control of pounds, rates of charge for feeding impounded cattle.

5. The pounds shall be under the control of the Magistrate of the District, and he shall fix, and may from time to time alter, the rates of charge for feeding and watering impounded cattle.

Appointment of *ex-officio* pound-keepers.

6. [3][The heads of villages shall be *ex-officio* keepers of village pounds:

Provided that, where it is deemed necessary, the Magistrate of the District shall be competent to relieve the head of the village of his charge and appoint another instead].

Suspension or removal of pound-keepers.

Every pound-keeper appointed by the Magistrate of the District may be suspended or removed by such Magistrate.

Pound-keepers may hold other offices.

Any pound-keeper may hold simultaneously any other office under Government.

Pound-keepers to be public servants.

Every pound-keeper shall be deemed a public servant within the meaning of the Indian Penal Code.

DUTIES OF POUND-KEEPERS.

To keep registers and furnish returns.

7. Every pound-keeper shall keep such registers and furnish such returns as the [2][Local Government] from time to time directs.

1. Added by Act XXXIV of 1951.
2. *Sic:* Should be "Government of Mysore."
3. These words were substituted for the original first paragraph and its proviso by Act VIII of 1892.

(Chapter III—Impounding Cattle).

8. When cattle are brought to a pound, the pound-keeper shall enter in his register— To register seizures.

(*a*) the number and description of the animals,

(*b*) the day and hour on and at which they were so brought,

(*c*) the name and residence of the seizer, and

(*d*) the name and residence of the owner, if known, and shall give the seizer or his agent a copy of the entry.

9. The pound-keeper shall take charge of, feed and water the cattle until they are disposed of as hereinafter directed. To take charge of and feed cattle.

CHAPTER III.

IMPOUNDING CATTLE.

10. The cultivator or occupier of any land,

or any person who has advanced cash for the cultivation of the crop or produce on any land, Cattle damaging land.

or the vendee or mortgagee of such crop or produce, or any part thereof,

may seize or cause to be seized any cattle trespassing on such land and doing damage thereto or to any crop or produce thereon, and [1][send them or cause them to be sent within twenty-four hours] to the pound established for the village in which the land is situate.

All officers of Police shall, when required, aid in preventing (*a*) resistance to such seizures, and (*b*) rescues from persons making such seizures. Police to aid seizures.

11. Persons in charge of public roads, pleasure grounds, plantations, canals, drainage-works, embankments and the like, and officers of police may seize or cause to be seized, any cattle doing damage to such roads, grounds, plantations, canals, drainage-works, embankments and the like, or the sides or slopes of such roads, canals, drainage works or embankments, or found straying thereon, Cattle damaging public roads, canals and embankments.

and shall [2][send them or cause them to be sent within twenty-four hours] to the nearest pound.

[3][**12.** (1) For every head of cattle impounded as aforesaid the pound-keepers shall levy a fine in accordance Fines for cattle impounded.

1. These words in s. 10 were substituted for the words "take them or cause them to be taken without unnecessary delay" by Act VIII of 1892.
2. These words in s. 11 were substituted for the words "take them without unnecessary delay" by Act VIII of 1892.
3. Substituted by Act XXXIV of 1951.

with the scale for the time being prescribed by the State Government in this behalf by notification in the *Mysore Gazette*. Different scales may be prescribed for the different local areas.

All fines so levied shall be sent to the Magistrate of the District through such officer as the State Government may direct.

A list of the fines and of the rates of charge for feeding and watering cattle shall be posted in a conspicuous place on or near to every pound.

(2) Every notification issued under sub-section (1) shall come into force from the date of its publication in the *Mysore Gazette* and shall be laid before the State Legislative Assembly, if it is in session as soon as may be after the issue of the notification and if it is not in session within three days of its re-assembly, and any member may by a resolution moved within a period of seven days beginning with the day on which the notification is so laid before the Assembly, seek to make any modification in such notification and if such resolution is passed by the Assembly, the notification shall thereafter have effect only in such modified form, but without prejudice to the validity of anything previously done thereunder.]

CHAPTER IV.

Delivery or Sale of Cattle.

Procedure when owner claims the cattle and pays fines and charges.

13. If the owner of impounded cattle or his agent appear and claim the cattle, the pound-keeper shall deliver them to him on payment of the fines and charges incurred in respect of such cattle.

The owner or his agent on taking back the cattle, shall sign a receipt for them in the register kept by the pound-keeper.

Procedure if cattle be not claimed within a week.

14. If the cattle be not claimed within seven days [1][or within three days in the case of asses impounded] from the date of their being impounded, the pound-keeper shall report the fact to the officer in charge of the nearest police-station, or to such other officer as the Magistrate of the District appoints in this behalf.

1. Inserted by Act IV of 1933.

Such officer shall thereupon stick up in a conspicuous part of his office a notice stating—

(*a*) the number and description of the cattle,
(*b*) the place where they were seized,
(*c*) the place where they are impounded,

and shall cause proclamation of the same to be made by beat of drum in the village and at the market place nearest to the place of seizure.

If the cattle be not claimed within seven days [or within four days in the case of asses impounded] from the date of the notice, they shall be sold by public auction by the said officer or an officer of his establishment deputed for that purpose, at such place and time, and subject to such conditions as the Magistrate of the District by general or special order from time to time directs:

Provided that if any such cattle are, in the opinion of the Magistrate of the District, not likely to fetch a fair price if sold as aforesaid they may be disposed of in such manner as he thinks fit.

Delivery to owner disputing legality of seizure but making deposit.

15. If the owner or his agent appear and refuse to pay the said fines and expenses, on the ground that the seizure was illegal and that the owner is about to make a complaint under section 20 then, upon deposit of the fines and charges incurred in respect of the cattle, the cattle shall be delivered to him.

Procedure when owner refuses or omits to pay the fines and expenses.

16. If the owner or his agent appear, and refuse or omit to pay or (in the case mentioned in section 15) to deposit the said fines and expenses, the cattle, or as many of them as may be necessary, shall be sold by public auction by such officer, at such place and time, and subject to such conditions, as are referred to in section 14.

Deduction of fines and expenses.

The fines leviable and the expenses of feeding and watering, together with the expenses of sale, if any, shall be deducted from the proceeds of the sale.

Delivery of unsold cattle and balance of proceeds.

The remaining cattle and the balance of the purchase money, if any, shall be delivered to the owner or his agent, together with an account showing—

(*a*) the number of cattle seized,
(*b*) the time during which they have been impounded,
(*c*) the amount of fines and charges incurred,
(*d*) the number of cattle sold,

(*e*) the proceeds of sale, and

(*f*) the manner in which those proceeds have been disposed of.

Receipt.

The owner or his agent shall give a receipt for the cattle delivered to him and for the balance of the purchase money (if any) paid to him according to such account.

Disposal of fines, expenses and surplus proceeds of sale.

17. The officer by whom the sale was made shall send to the Magistrate of the District the fines so deducted.

The charges for feeding and watering deducted under section 16 shall be paid over to the pound-keeper, who shall also retain and appropriate all sums received by him on account of such charges under section 13.

The surplus unclaimed proceeds of the sale of cattle shall be sent to the Magistrate of the District, who shall hold them in deposit for three months, and if no claim thereto be preferred and established within that period, shall at its expiry, dispose of them as hereinafter provided.

Application of fines and unclaimed proceeds of sales.

18. Out of the sums received on account of fines and the unclaimed proceeds of the sale of cattle, shall be paid—

(*a*) the salaries allowed to pound-keepers under the orders of the [1][Local Government] ;

(*b*) the expenses incurred for the construction and maintenance of pounds, or for any other purpose connected with the execution of this Act ;

and the surplus (if any) shall be applied, under orders of the [1][Local Government], to the construction and repair of roads and bridges and to other purposes of public utility.

Officers and pound-keepers not to purchase cattle at sales under Act.

19. No officer of police, or other officer or pound-keeper appointed under the provisions herein contained, shall, directly or indirectly, purchase any cattle at a sale under this Act.

Pound-keepers when not to release impounded cattle.

No pound-keeper shall release or deliver any impounded cattle otherwise than in accordance with the former part of this chapter, unless such release or delivery is ordered by a Magistrate or Civil Court.

1 Sic: Should be "Government of Mysore."

(Chapter V—Complaints of Illegal Seizure or Detention.)

[1]CHAPTER V.

COMPLAINTS OF ILLEGAL SEIZURE OR DETENTION.

Power to make complaints.

20. Any person whose cattle have been seized under this Act, or having been so seized, have been detained in contravention of this Act, may at any time within ten days from the date of the seizure, make a complaint to the Magistrate of the District, or any Magistrate authorized to receive and try charges without reference by a Magistrate of the District.

Procedure on complaint.

21. The complaint shall be made by the complainant in person, or by an agent personally acquainted with the circumstances. It may be either in writing or verbal. If it be verbal, the substance of it shall be taken down in writing by the Magistrate.

If the Magistrate, on examining the complainant or his agent, sees reason to believe the complaint to be well founded, he shall summon the person complained against and make an enquiry into the case.

Compensation for illegal seizure or detention.

22. If the seizure or detention be adjudged illegal, the Magistrate shall award to the complainant, for the loss caused by the seizure or detention, reasonable compensation, not exceeding one hundred rupees, to be paid by the person who made the seizure or detained the cattle together with all fines paid and expenses incurred by the complainant in procuring the release of the cattle;

Release of cattle.

and, if the cattle have not been released, the Magistrate shall, besides awarding such compensation, order their release and direct that the fines and expenses leviable under this Act shall be paid by the person who made the seizure or detained the cattle.

Recovery of compensation.

23. The compensation, fines and expenses mentioned in section 22 may be recovered as if they were fines imposed by the Magistrate.

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1 This chapter was substituted for the original Chapter V by Act VIII of 1892.

CHAPTER VI.

PENALTIES.

Penalty for forcibly opposing the seizure of cattle or rescuing the same.

24. Whoever forcibly opposes the seizure of cattle liable to be seized under this Act,

and whoever rescues the same after seizure, either from a pound, or from any person taking or about to take them to a pound, such person being near at hand and acting under the powers conferred by this Act,

shall, on conviction before a Magistrate, be punished with imprisonment for a period not exceeding six months or with fine not exceeding five hundred rupees, or with both.

Recovery of penalty for mischief committed by causing cattle to trespass.

25. Any fine imposed[1] [under the next following section or] for the offence of mischief by causing cattle to trespass on any land may be recovered by sale of all or any of the cattle by which the trespass was committed, whether they were seized in the act of trespassing or not, and whether they are the property of the person convicted of the offence, or were only in his charge when the trespass was committed.

Penalty for damage caused to land or crops or public roads by pigs.

26. Any owner or keeper of pigs, who through neglect or otherwise, damages or causes or permits to be damaged any land, or any crop or produce of land, or any public road, by allowing such pigs to trespass thereon, shall, on conviction before a Magistrate, be punished with fine not exceeding ten rupees.

[2] [The Government of Mysore by notification in the Official Gazette may, from time to time with respect to any local area specified in the notification, direct that the foregoing portion of this section shall be read as if it had reference to cattle generally, or to cattle of a kind described in the notification, instead of to pigs only, or as if the words 'fifty rupees' were substituted for the words 'ten rupees' or as if there were both such reference and such substitution.

The Government of Mysore may at any time, by notification in the Official Gazette, cancel or vary a notification under this section.]

1. These words in s. 25 were inserted by Act VIII of 1892.
2. Added by Act VIII of 1892.

(Chapter VII and VIII—Suits for Compensation—Supplemental)

27. Any pound-keeper releasing or purchasing or delivering cattle contrary to the provisions of section 19 or omitting to provide any impounded cattle with sufficient food and water, or failing to perform any of the other duties imposed upon him by this Act, shall over and above any other penalty to which he may be liable, be punished on conviction before a magistrate, with fine not exceeding fifty rupees. Penalty on pound-keeper failing to perform duties.

Such fines may be recovered by deduction from the pound-keeper's salary.

28. All fines recovered under section 25, section 26, or section 27 may be appropriated in whole or in part as compensation for loss or damage proved to the satisfaction of the convicting Magistrate. Application of fines recovered under sections 25, 26 or 27.

CHAPTER VII.

SUITS FOR COMPENSATION.

29. Nothing herein contained prohibits any person whose crops or other produce of land have been damaged by trespass of cattle from suing for compensation in any competent Court. Saving of right to sue for compensation.

30. Any compensation paid to such person under this Act by order of the convicting Magistrate shall be set-off and deducted from any sum claimed by or awarded to him as compensation in such suit. Set off.

[1]CHAPTER VIII.

SUPPLEMENTAL.

31. The Government of Mysore may, from time to time, by notification in the Official Gazette— Power of Government of Mysore to transfer certain functions to local authority and direct credit of surplus receipts to local fund,

(*a*) transfer to any local authority, within any part of the territories under its administration in which this Act is in operation, all or any of the functions of the Government of Mysore or the Magistrate of the District under this Act, within the local area subject to the jurisdiction of the local authority, or

1. Chapter VIII was added by Act VIII of 1892.

(*Schedule*)

(*b*) direct that the whole or any part of the surplus accruing in any district under section 18 of this Act shall be placed to the credit of such local fund or funds as may be formed for any local area or local areas comprised in that district,

and may, from time to time, by notification in the Official Gazette, cancel or vary any notification under this section.

[1] [SCHEDULE].

(*See section 2.*)

Number and year	Title of Act
III of 1857 ...	An Act relating to trespasses by cattle.
V of 1860 ...	An Act to amend Act III of 1857 (relating to trespasses by cattle).
XXII of 1861 ...	An Act to amend Act III of 1857 (relating to trespasses by cattle).

1. This schedule was inadvertently omitted to be repealed by Act VIII of 1892 though inapplicable to Mysore.

MYSORE ACT No. XXIII OF 1871[1]

THE PENSIONS ACT, 1871.

An Act to consolidate and amend the law relating to pensions and grants by Government of money or land revenue.

WHEREAS it is expedient to consolidate and amend the law relating to pensions and grants by Government of money or land revenue; It is hereby enacted as follows :— Preamble.

I.—PRELIMINARY.

1. This Act may be called " The Pensions Act, 1871." Short title.
It extends to the whole of Mysore. Extent of Act.
And it shall come into force on the date of the passing thereof but not so as to affect any suit in respect of a pension or grant of money or land revenue which may have been instituted before such date. Commencement.

2. *Omitted as directed by Notification* No. 169, *dated the 22nd August* 1873.

3. In this Act, the expression " grant of money or land revenue " includes anything payable on the part of Government in respect of any right, privilege, perquisite or office. Interpretation clause.

II.—RIGHTS TO PENSIONS.

4. Except as hereinafter provided, no Civil Court shall entertain any suit relating to any pension or grant of money or land revenue conferred or made by the British or any former Government, whatever may have been the consideration for any such pension or grant, and whatever may have been the nature of the payment, claim or right for which such pension or grant may have been substituted. Bar of suits relating to pensions.

5. Any person having a claim relating to any such pension or grant may prefer such claim to the Collector of the District or Deputy Commissioner or other officer authorised in this behalf by the Government of Mysore; and Claims to be made to Collector or other authorised officer.

(1) This Act was extended to Mysore by the Viceroy and Governor-General in Council by notification of the Government of India Foreign Department, Judical, No, 169, dated the 22nd August 1873, with certain modifications.

such Collector, Deputy Commissioner or other officer shall dispose of such claim in accordance with such rules as the Chief Revenue Authority may [1] from time to time prescribe in this behalf.

Civil Court empowered to take cognizance of such claims.

6. A Civil Court, otherwise competent to try the same shall take cognizance of any such claim upon receiving a certificate from such Collector, Deputy Commissioner or other officer authorized in that behalf that the case may be so tried, but shall not make any order or decree in any suit whatever by which the liability of Government to pay any such pension or grant as aforesaid is affected directly or indirectly.

Pensions for lands held under grants in perpetuity.

7. Nothing in sections 4 and 6 applies to—

(1) any inam of the class referred to in the first section of Madras Act No. IV of 1862 .

III. Mode of Payment.

Payment to be made by Collector or other authorized officer.

8. All pensions or grants by Government of money or land revenue shall be paid by the Collector or the Deputy Commissioner or other authorized officer, subject to such rules as may, from time to time, be prescribed by the Government of Mysore.

Saving of rights of grantees of land revenue.

9. Nothing in sections 4 and 8 shall affect the right of a grantee of land revenue, whose claim to such grant is admitted by Government, to recover such revenue from the persons liable to pay the same under any law for the time being in force for the recovery of the rent of land.

Commutation of pensions.

10. The Government of Mysore may, with the consent of the holder, order the whole or any part of his pension or grant of money or land revenue to be commuted for a lump-sum on such terms as may seem fit.

IV.—Miscellaneous.

Exemption of pension from attachment.

11. No pension granted or continued by Government on political considerations, or on account of past services or present infirmities or as a compassionate allowance,

and no money due or to become due on account of any such pension or allowance,

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1. The words "subject to the general control of the Local Government" in section 5 have been omitted as directed by Notification No. 169, dated the 22nd August 1873.

2. Clause (2) of section 7 has been omitted as directed by ibid.

shall be liable to seizure, attachment or sequestration by process of any Court in Mysore, at the instance of a creditor, for any demand against the pensioner, or in satisfaction of a decree or order of any such Court.

Assignments, etc., in anticipation of pension, to be void.

12. All assignments, agreements, orders, sales and securities of every kind made by the person entitled to any pension, pay or allowance mentioned in section 11, in respect of any money not payable at or before the making thereof, on account of any such pension, pay or allowance, or for giving or assigning any future interest therein, are null and void.

Reward to informers.

13. Whoever proves to the satisfaction of the Government of Mysore that any pension is fraudulently or unduly received by the person enjoying the benefit thereof, shall be entitled to a reward equivalent to the amount of such pension for the period of six months.

Power to make rules.

14. The Government of Mysore may [1] from time to time make rules consistent with this Act respecting all or any of the following matters:—

(1) the place and times at which, and the person to whom any pension shall be paid,
(2) inquiries into the identity of claimants,
(3) records to be kept on the subject of pensions,
(4) transmission of such records,
(5) correction of such records,
(6) delivery of certificates to pensioners,
(7) registers of such certificates,
(8) reference to the Civil Court under section 6, of persons claiming a right of succession to, or participation in, pensions or grants of money or land revenue payable by Government,

and generally for the guidance of officers under this Act.

All such rules shall be published in the local Official Gazette, and shall thereupon have the force of law.

[*SCHEDULE.*] *Omitted as directed by Notification No.* 169, *dated the* 22*nd August* 1873.

1. The words "with the consent of the Local Government" in section 14 have been omitted as directed by Notification No. 169, dated the 22nd August 1873.

MYSORE ACT No. I OF 1873[1]

[2]THE WILD ELEPHANTS (PRESERVATION) ACT, 1873.

An Act to prevent the indiscriminate destruction of Wild Elephants.

Preamble.

WHEREAS it is expedient to make provision to prevent the indiscriminate destruction of wild elephants within the [3][State of Mysore except Bellary District][3]; it is hereby enacted as follows:—

Local extent.

1. This Act extends to the [3][whole of the State of Mysore except Bellary District.]

Commencement.

2. From and after the said day, the destruction of wild elephants is prohibited, except as hereinafter provided.

Destruction of wild elephants prohibited. Penalty for destroying female elephants.

3. Whoever shoots at, or intentionally destroys, or abets, within the meaning of the Indian Penal Code, the shooting at, or destruction of, any wild female elephant upon waste or forest land, whether such land be the property of Government or otherwise, shall be liable to a penalty not exceeding five hundred rupees, and, in default of payment, to simple or rigorous imprisonment for a period not exceeding three months.

Any person convicted under this Act of an offence committed after his previous conviction under this Act, shall be liable to a penalty not exceeding one thousand rupees, and, in default of payment, to simple or rigorous imprisonment for a period not exceeding six months.

Penalty for destroying male elephant on Government land without license.

4. Whoever, not being authorized thereto by a license granted under the provisions of section 7, shoots at, or intentionally destroys, or abets, within the meaning of the Indian Penal Code, the shooting at, or destruction of, any wild male elephant upon waste or forest land, the property of the Government, shall, upon a first or second conviction, be liable to the penalties and periods of imprisonment respectively provided for a first or second conviction in section 3 of this Act.

Saving clause as to destruction of male elephants on zamindary or private land.

5. Nothing in this Act shall be deemed to prevent any zamindar or other proprietor or occupier of land, or any person duly authorized in that behalf by any such zamindar,

1. This Act was extended to Mysore by the Viceroy and Governer-General in Council by Notification of the Government of India, Foreign Department, Judicial, No. 88 J, dated the 22nd May 1874.
2. Short title given by Mysore Act VIII of 1949.
3. See the Mysore Adaptation of Laws Order, 1953.

proprietor, or occupier, from destroying wild male elephants upon the waste or forest lands of such zamindar, proprietor or occupier.

Saving clause as to destruction of elephants on cultivated lands, etc.

6. Nothing in this Act shall be deemed to prevent any person from shooting at, or destroying any wild male or female elephant found upon cultivated lands, or upon or in the immediate vicinity of any public road, or to prevent any person from shooting at or destroying any male or female elephant in defence of himself or any other person.

License to shoot male elephants.

7. The Collector or other officer in charge of a district may, subject to such rules as may, from time to time, be made by the Government of Mysore, issue a license to any person authorizing him by name to shoot wild male elephants upon waste or forest lands, the property of the Government, in such district, for the period of one year from the date of the grant of such license.

Every such license shall become void at the expiration of the said period, but may be renewed by such Collector or other officer for a like period:

Proviso.

Provided that every such license shall become void upon the conviction under this Act of the person to whom such license was granted.

Power to make rules for grant or renewal of licenses.

8. The Government of Mysore, may make rules for regulating the grant or renewal of licenses under this Act, and the fees to be charged on such grant or renewal, and may, from time to time, alter or cancel such rules.

Limitation of Prosecution.

9. Every prosecution under this Act shall be commenced within a period of six months from the date of the offence, in respect of which it is instituted.

In section 7, for the words "Government of Mysore" read "Local Government."

In section 8, for the words "Government of Mysore" read "Local Government."

MYSORE ACT No. VIII OF 1878[1]

THE MYSORE COFFEE STEALING PREVENTION ACT, 1878.

An Act to prevent Thefts of Coffee.

Preamble. WHEREAS it is expedient to make special provision to prevent thefts of coffee, and to repress and punish the offence of receiving or disposing of stolen coffee in the neighbourhood of coffee plantations or estates; It is enacted as follows :—

Short title. **1.** This Act may be called The Mysore Coffee Stealing Prevention Act, 1878.

Commencement and local extent of Act. **2.** [2]This Act shall take effect in such districts, divisions or parts of districts, or within such localities or limits within the [3][State of Mysore except Bellary District,] and from such date as the [4][Government of Mysore] may from time to time direct by notification published in the official Gazette.

Power to modify or annul notification. The [4][Government of Mysore] may from time to time modify or cancel such direction by notification, similarly published.

Interpretation. **3.** In this Act.—

Labourer. "Labourer" means and includes all persons (except resident managers) temporarily or permanently employed on a coffee estate in any capacity, whether agricultural, menial or otherwise whosoever.

Carrier. "Carrier" means and includes all persons for the time being employed in the transport of coffee, whether by porterage, packanimals, boat, cart or otherwise, and whether as contractors, drivers or otherwise.

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1. This Act was extended to Mysore by the Governor-General in Council by Notification of the Government of India, Foreign Department, Judicial No. 130-I. J, dated the 19th June 1879, with certain modifications.

2. Under this section it was directed that the Act should take effect in the parts of the districts mentioned below, namely:—

Mysore District.—The taluks of Chamarajanagar, Gundlupet, Periyapatna, Heggaddevankote.

Hassan District.—The taluks of Arkalgud, Hole-Narsipur, Manjarabad, Belur, Hassan.

Kadur District.—The taluks of Mudgere, Koppa, Lakkavalli, Tarikere, Chikmagalur.

Shimoga District.—The taluks of Kavaledurga and Nagar.

Vide Notification by the Government of India, No. 242 I. J., dated the 3rd September 1879.

3. See the Mysore Adaptation of Laws Order 1956.

4. These words were substituted for the words "Governor in Council" by Notification No. 130-I. J., dated the 19th June 1878.

"Coffee estate" means and includes any land on which coffee is growing. Coffee estate.

"Coffee" means and includes all coffee not roasted or otherwise prepared for immediate consumption. Coffee.

4. It shall not be lawful for any one to purchase, take in barter or exchange, or receive coffee from any labourer employed on a coffee estate. Coffee not to be taken from labourers.

5. It shall not be lawful for any one to purchase, take in barter or exchange, or receive coffee from any person other than a labourer employed on a coffee estate, unless the person so purchasing, taking in barter or exchange, or receiving such coffee shall immediately thereupon enter or cause to be entered in a book to be kept by him for that purpose a true record of such transaction, specifying:— Coffee not to be taken from other than labourer, unless particulars entered in book.

(*a*) the name, residence and occupation of the person from whom such coffee was so purchased, taken in barter or exchange, or received;

(*b*) the date of the transaction; and

(*c*) the quantity and description of the coffee so purchased, taken in barter or exchange, or received:

Provided that this section shall not apply to coffee purchased, taken in barter or exchange, or received from any person other than a labourer employed on a coffee estate, and intended *bona fide* for consumption in the house or on the premises of the person purchasing, taking in barter or exchange, or receiving the same as aforesaid. Section not to apply to coffee taken for *bona fide* personal consumption.

6. All books required by section 5 to be kept by persons purchasing coffee shall be produced upon the requisition of any police officer not below the rank of an officer in charge of a police station, generally or specially authorized by any Magistrate to require the production of such books. Books to be produced on police officer's requisition.

7. It shall not be lawful for any one to purchase or take in barter or exchange coffee from any carrier, or for any carrier to sell or give in barter or exchange any coffee, unless the person so purchasing or taken in barter or exchange such coffee shall, besides making the entry required by section 5 of this Act, also enter or cause to be entered in the book mentioned in the said section 5 the marks (if any) on the bags or other packages in which such coffee may be contained, and unless the entries required by this section and by the said section 5 be also correctly Conditions under which coffee may be taken from a carrier.

signed by such carrier in his own name, and attested by a police officer or the headman of the village within which the transaction takes place; for which attestation no fee shall be chargeable.

Penalty for breach of sections 4,5, 6 or 7.

8. Any person committing any breach of the provisions contained in sections 4, 5, 6 or 7 of this Act shall be liable, on conviction by a Magistrate, to pay a fine not exceeding five hundred rupees.

Penalty in case of labourer being found in possession of green coffee for which he cannot account.

9. Any cooly, maistry or other labourer employed on a coffee estate found with green gathered coffee in his possession, and failing to account satisfactorily for such possession, shall be liable, on conviction by a Magistrate, to pay a fine not exceeding five hundred rupees.

Coffee not to be carried without permission of owner or agent.

10. No person shall carry or remove coffee from any coffee estate, premises or place, or upon any road, highway or footway, without the express permission of the owner or of his authorized agent.

Permission to be in writing.

Such permission shall be in writing, dated and signed by the said owner or his authorized agent, and shall contain the following particulars:—

(*a*) the quantity of the coffee to be carried or removed;

(*b*) the number, description and marks of the packages in which coffee is secured;

(*c*) the place or destination to which the coffee is to be carried or removed; and

(*d*) the names of the consigner and consignee.

Penalty for breach of this section.

Any person committing any breach of the provisions of this section shall, on conviction by a Magistrate, be liable to pay a fine not exceeding five hundred rupees.

Hours of gathering or removing coffee.

11. No coffee shall be gathered, moved, loaded or unloaded on any coffee estate between sunset and sunrise.

Penalty for breach of above provision.

Any person committing a breach of this provision, or abetting (within the meaning of the Indian Penal Code) such breach, shall, on conviction by a Magistrate, be liable to pay a fine not exceeding five hundred rupees:

Section 10 and this section not to apply to ordinary operations of curing.

Provided that nothing in section 10 or in this section shall apply to the ordinary operations of curing the crop on the estate, such as pulping or storing.

12. If it shall appear that such gathering, moving, loading or unloading was for the purpose of committing a theft, the person or persons so engaged shall be liable to be charged with theft, or abetment of theft, and be proceeded against for such offence under the provisions of sections 378 and 379 or section 107, 108 and 109 of the Indian Penal Code, as the case may be.

Procedure if gathering, etc., was done to commit theft.

13. It shall be at the discretion of the Magistrate, in the case of any persons, not being females, who shall be convicted of a second offence under section 9 of this Act, to substitute or add corporal punishment under the provisions of Act No. VI of 1864 (*An Act to authorise the punishment of whipping in certain cases*), or of any other law for the time being in force in that behalf for or to the penalties provided by this Act:

Substituted or additional punishment for second offence under section 9.

Provided that such substituted or additional punishment shall be awarded only in respect of the offence itself, and not as an alternative penalty for non-payment of fine.

Proviso.

14. All fines paid or levied under this Act shall be paid into the public treasury:

Fines to be paid into public treasury.

Provided that the magistrate trying any case under this Act may grant the whole or any portion of any fine levied therein as rewards to persons furnishing such information as may have led to the conviction of offenders under this Act.

Magistrate may grant rewards to informers.

MYSORE ACT No. I OF 1883

THE MYSORE CIVIL COURTS ACT, 1883.

(As Amended by Acts V of 1892, VI of 1894, II of 1898, III of 1901, VIII of 1911, IX of 1915. VII of 1926, VIII of 1937, and XXXVIII of 1951.)

(PASSED ON THE 16TH DAY OF JUNE, 1883.)

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to the constitution, powers and jurisdiction of the Civil Courts in the [1][State of Mysore except Bellary District] subordinate to the Court of the Chief Justice of Mysore; His Highness the Maharaja is pleased to enact as follow :—

Short title. **1.** This Act may be called "The Mysore Civil Courts Act, 1883."

Local extent. It extends to the [1][whole of the State of Mysore except Bellary District];

Commencement. And it shall come into force on the 1st day of July 1883.

Rules repealed. **2.** From and after that day, the Notification of the Government of India No. 235 I. J., Foreign Department, dated Simla, the 27th August 1879, shall be repealed.

Class and designation of Courts. **3.** Besides the Court of the Chief Justice of Mysore, which shall hereafter be styled "The High Court of Mysore" there shall be [2] [four] classes of Civil Courts, namely.—

1stly. The District Court.
2ndly. The Court of the Subordinate Judge.
3rdly. The Court of the Munsiff.
[3][4thly. The Court of Small Causes].

Number of Courts. **4.** (*a*) The number of District Courts and of the Courts of Subordinate Judges and Munsiffs [3] [and of the Courts of Small Causes] shall be fixed, and may, from time to time, be altered by the Government of Mysore.

Locality of Courts. (*b*) The place at which every such Civil Court shall be held shall be fixed, and may, from time to time, be altered by the Government of Mysore:

Appointment of Judges. (*c*) The Judge of every such Civil Court shall be appointed by the Government of Mysore, provided that

1. See Mysore Adaptation of Laws Order, 1953.
2. Substituted for the word "three" by Schedule II to Act VIII of 1911.
3. These words were added by Schedule II to Act VIII of 1911.

the appointment of a Munsiff shall be made only upon nomination by the High Court of Mysore :

[1][Provided further that in emergent cases, *i.e.*, in the event of the death of a Munsiff, or of his being suspended, or incapacitated by illness or otherwise for the performance of his duties, the High Court may, pending the orders of Government, to which a report shall be made in that behalf, fill up the vacancy thus caused temporarily by appointing such person as it thinks fit to act in such office.]

(*d*) Every such Civil Court shall use a seal of such form and dimensions as are, for the time being, prescribed by the Government of Mysore. The seal now used by every such Civil Court shall be deemed to have been prescribed under this section. Seal of Court.

[2][**4-A.** The Government of Mysore may by notification, fix, and from time to time vary, the number of Judges to be appointed for a District or Subordinate Judge's or Munsiff's Court. Number of Judges for each Court.

4-B. When more than one Judge is appointed for a District or Subordinate Judge's or Munsiff's Court, one of the Judges shall be appointed the Principal Judge and the others Additional Judges. Distribution of work.

Each of the Judges appointed to a District or Subordinate Judge's or to a Munsiff's Court, may exercise all or any of the powers conferred on the Court by this Act or any other law for the time being in force.

Subject to the general or special orders of the High Court, the Principal District Judge may and subject to the general or special orders of the District Judge, the Principal Subordinate Judge or the Principal Munsiff may from time to time, make such arrangements as he thinks fit for the distribution of the business of the Court among the various Judges thereof.]

5. The Government of Mysore may fix, and may from time to time alter, the local limits of the jurisdiction of a District Court or of the Court of a Subordinate Judge or Munsiff [3][or of a Court of Small Causes]. The present local limits of the jurisdiction of every such Court shall be deemed to have been fixed under this Act. Local jurisdiction of Courts.

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1. This proviso was added by Act VI of 1894.
2. Substituted by Act VIII of 1937.
3. These words were added by Schedule II to Act VIII of 1911.

Jurisdiction of District Courts.

6. The jurisdiction of the District Court shall extend, subject to the rules contained in the Code of Civil Procedure, to all original suits and proceedings of a civil nature.

Principal Civil Court in District.

7. The District Court shall be deemed to be the Principal Civil Court of original jurisdiction within the local limits of its jurisdiction.

Control of Subordinate Courts in District.

8. The District Court shall, subject to the general control of the High Court of Mysore, have control over all Civil Courts within the limits of its local jurisdiction.

Jurisdiction of Subordinate Judge.

9. The jurisdiction of a Subordinate Judge shall extend to all original suits and proceedings of a civil nature, not otherwise exempted from his jurisdiction, of which the amount or value of the subject-matter does not exceed Rs. 5,000:

Power to enhance Subordinate Judge's jurisdiction up to Rs. 10,000 or without limit.

[1][Provided that the Government of Mysore may, whenever it deems fit, and within such local limits as it may from time to time prescribe, enhance the pecuniary limit of such jurisdiction up to Rs. 10,000], [2][or invest any Subordinate Judge with jurisdiction without any limit as to amount or value of the subject-matter.]

Jurisdiction of Munsiff.

10. The jurisdiction of a Munsiff shall extend to all like suits and proceedings, not otherwise exempted from his jurisdiction, of which the amount or value of the subject-matter does not exceed Rs. 1,000:

Power to enhance Munsiff's jurisdiction up to Rs. 2,500.

[1][Provided that the Government of Mysore may, whenever it deems fit, and within such local limits as it may, from time to time, prescribe, enhance the pecuniary limit of such jurisdiction up to Rs. 2,500].

Jurisdiction of a Court of Small Causes.

[3][**10-A.** The jurisdiction of a Court of Small Causes shall be regulated in accordance with the law relating to such Courts for the time being in force in [4][the State of Mysore except Bellary District].

Valuation of suits.

11. When the subject-matter of any suit or proceeding is land, a house or a garden, its value shall, for the purposes of the jurisdiction conferred by this Act, be fixed in manner provided by the Court Fees Act, 1870, section 7, clause (v).[5]

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1. Added by Act II of 1898.
2. Added by Act III of 1901.
3. This section was added by Schedule II to Act VIII of 1911.
4. See the Mysore Adoptation of Laws Order, 1953.
5. Now, the Court Fees Act, 1900, section 4, clause v.

12. Appeals from the decrees and orders passed in original suits and proceedings by a District Court shall, when such appeals are allowed by law, lie to the High Court of Mysore. Appeal from District Court.

13. Appeals from the decrees and orders passed by a Subordinate Judge in original suits and proceedings shall, when such appeals are allowed by law, lie to the High Court of Mysore, except when the amount or value of the subject-matter of the original suit or proceeding does not exceed Rs. [1][10,000], in which case the appeal shall lie to the District Court having local jurisdiction. Apppeal from Subordinate Judge.

14. Appeals from the decrees and orders of a Munsiff in original suits and proceedings shall, when such appeals are allowed by law, lie to the District Court having local jurisdiction : Appeal from Munsiff.

Provided that such District Court may refer any such appeal for disposal to any Subordinate Judge within the limits of its local jurisdiction :

[2]And provided further that, notwithstanding anything contained in section 14 of the Mysore High Court Act, 1884, as amended by Act II of 1890, the Government may, from time to time, by notification in the official Gazette, direct that appeals from the decrees and orders of a Munsiff or Munsiffs within an area to be specified in such notification shall lie direct to any such Subordinate Judge.

15. A second appeal from a decree or order passed by a District Court or by the Court of a Subordinate Judge in an appeal, suit or proceeding shall, when such appeal is allowed by law, lie to the High Court of Mysore. Second Appeal.

16. The Government of Mysore may, by notification in the *Mysore Gazette*, invest, within such local limits as it shall from time to time appoint, any [3][District Judge or] Subordinate Judge or other officer specially selected by it, with jurisdiction of a Court of Small Causes, for the trial of suits cognizable by such Court, up to any amount not exceeding Rs. 500 ; Small Cause powers.

and any Munsiff, with the same jurisdiction up to any amount not exceeding Rs. 100,[4]

and it may, by like notification, withdraw or alter the jurisdiction so vested.

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1. Substituted by Act XXXVIII of 1951.
2. This further proviso was added by Act III of 1901.
3. These words were inserted by Act V of 1892.
4. The figure "100" was substituted for "50" by Act IX of 1915.

Law applicable to questions of succession etc.

17. Where in any suit or proceeding it is necessary for any Court under this Act to decide any question regarding succession, inheritance, marriage or caste or any religious usage or institution,

(*a*) the Muhammadan law in cases where the parties are Muhammadans, and the Hindu Law in cases where the parties are Hindus, or

(*b*) any custom (if such there be) having the force of law and governing the parties or property concerned, shall form the rule of decision, unless such law or custom has, by legislative enactment, been altered or abolished.

(*c*) In cases where no specific rule exists, the Court shall act according to justice, equity and good conscience.

Refund of half fee in uncontested cases.

[1][**17-A.** Whenever any suit or appeal instituted in any Court of original or appellate jurisdiction is disposed of without contest, by agreement of parties, the Court shall, on the application of the plaintiff or appellant, grant a certificate to him authorizing him to receive back from the Deputy Commissioner half the amount of fee paid on the plaint or memorandum of appeal :

Provided that the said application is made within six months of date when the judgment or final order was passed.

In all such cases, the party ordered to pay costs, shall be charged only with half the amount of the institution fee.]

Judge not to try suits in which he is interested.

18. No judge shall try any suit to, or in, which he is a party or personally interested, or shall adjudicate upon any proceeding connected with, or arising out of, such suit.

or, appeals from his decrees passed in another capacity.

No Judge shall try any appeal against a decree or order passed by himself in another capacity.

When any such suit, proceeding or appeal comes before any such Judge, he shall report the circumstances to the Court to which he is immediately subordinate.

The superior Court shall thereupon dispose of the case in the manner prescribed by the Code of Civil Procedure, section 25[2].

1. This section was inserted by Act II of 1898.
2. New section 24 of Act III of 1911.

Suspension or removal of Judges.

19. Any District Judge, Subordinate Judge, [1]Munsiff [2][or a Judge of a Court of Small Causes] may, for any misconduct, be suspended or removed by the Government of Mysore.

Suspension or removal of Munsiffs.

20. The High Court may suspend any Munsiff for any alleged misconduct, and may either itself enquire into such alleged misconduct, or appoint a commission for enquiring thereinto.

On the completion of such enquiry held by itself, or on receiving the report of the commission appointed to conduct such enquiry, the High Court may, if it thinks fit, and subject to the confirmation of Government, remove the Munsiff from office, or suspend him, or reduce him to a lower grade.

Appointment, etc., of ministerial officers.

[3][**21.** Subject to such rules as the Government of Mysore may prescribe in this behalf, the ministerial officers of every Court shall be appointed, and may be fined, suspended or removed, by the Judge of that Court].

Vacations.

[4][**22.** (1) In addition to public holidays authorised by the State Government, the civil courts subordinate to the High Court shall have three vacations in each year, namely, Summer, Dasara and Winter.

(2) The total number of days in all the said three vacations shall not exceed sixty days and the period of each vacation in each year shall be fixed by the Chief Justice.]

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1. The word 'or' here was omitted by Schedule II to Act VIII of 1911.
2. These words were added by Schedule II to Act VIII of 1911.
3. Substituted by Act IX of 1915.
4. Substituted by Act XXXVIII of 1951.

MYSORE ACT No. I OF 1884.

THE MYSORE HIGH COURT[1] ACT, 1884.

(*As amended by Acts II of* 1890, *IV of* 1903, *II of* 1905, *III of* 1909, *IV of* 1911, *XII of* 1930, *XXXV of* 1951 *and XXIV of* 1952.)

(PASSED ON THE 23RD DAY OF MAY, 1884.)

WHEREAS it is expedient to amend the constitution of [2][and to provide for the administration of Justice by] the High Court of Mysore, His Highness the Maharaja of Mysore is pleased to enact as follows :—

Short title.

1. This Act may be called "The Mysore High Court Act, 1884."

Extent and Commencement.

It shall extend to the whole of the territories of Mysore ; and

It shall come into force on the twenty-eighth day of May 1884.

2. [3][* * *]

Interpretation Clause.

3. In this Act unless a contrary intention appears from the context,—

"High Court" means the High Court of Mysore as constituted under this Act ; and

"Chief Justice" means the Chief Justice of the said High Court appointed under this Act ; and

Reference to the "Chief Court" or to the "High Court" in any Regulation, Act or other law for the time being in force, shall be deemed to have been made to the High Court as constituted under this Act.

[4]["Full Bench" means a Bench consisting of not less than three] Judges of the High Court.

4. [3][* * *]

Precedence of Judges.

5. The Chief Justice shall have rank and precedence before the other Judges of the High Court who, as between themselves, shall have rank and precedence according to the seniority of their appointments as such Judges.

6.—10. [5][* * *]

Law in cases of succession, etc.

11. Where, in any suit or proceeding it is necessary for the High Court to decide any question regarding

1. For the words, "Chief Court of Mysore," "Chief Court" and "Chief Judge" the words, "High Court of Mysore" "High Court" and "Chief Justice" respectively were substituted by Act XII of 1930.
2. Inserted by Act XXXV of 1951.
3. Omitted by Act XXXV of 1951.
4. Substituted for the "original" by Act III of 1909.
5. Sections 6, 7, 8, 9 and 10 omitted by Act XXXV of 1951.

succession, inheritance, marriage, or caste, or any religious usage or institution,

(*a*) the Mohamedan Law where the parties are Mohamedans, and the Hindu Law where the parties are Hindus, or

(*b*) any custom (if such there be) having the force of law and governing the parties or property concerned, shall form the rule of decision, unless such law or custom has by legislative enactment, been altered or abolished.

(*c*) In cases where no specific rule exists, the High Court shall act according to justice, equity and good conscience.

Ordinary original civil and criminal jurisdiction of High Court.

[1]**12.** (1) The Government of Mysore may, whenever it deems fit, confer upon the High Court, by notification in the official Gazette, the ordinary original civil jurisdiction of a District Court in all suits and proceedings of a civil nature, or the ordinary original criminal jurisdiction of a Sessions Court, or both such jurisdictions, to be exercised within such local limits as the Government may, from time to time, declare and appoint in that behalf.

(2) The Government may, whenever it deems fit, withdraw the ordinary original jurisdiction conferred upon the High Court under this section and appoint a separate Judge or Judges for the exercise of the jurisdiction thus withdrawn.

(3) The local limits within which ordinary original civil jurisdiction is conferred upon the High Court under this section shall be deemed to be a District within the meaning of the Code of Civil Procedure.

(4) The local limits within which ordinary original criminal jurisdiction is conferred upon the High Court under this section shall be deemed to be a Sessions Division within the meaning of the Code of Criminal Procedure.

(5) For the purpose of exercising the ordinary original civil jurisdiction conferred upon the High Court under section 12, the High Court shall, depute one of the Judges of such Court, who shall, for the purpose aforesaid conduct his proceedings in the same manner and subject to the same procedure as if he had been appointed to be the Judge of the District Court of the aforesaid District under the Mysore Civil Courts' Act, 1883.

1. Sections 12, 13, 14, 15 and 16 were substituted by Act II of 1890.

(6) For the purpose of exercising the ordinary original criminal jurisdiction conferred upon the High Court under section 12, the High Court shall depute one of the Judges of such Court, who shall, for the purpose aforesaid, conduct his proceedings in the same manner and subject to the same procedure as if he had been appointed to be the Judge of the Court of Session for the aforesaid Sessions Division under the Code of Criminal Procedure.

Appeals etc., from decisions of High Court in exercise of original jurisdiction.

13. Appeals against references regarding, and applications for revision of judgments, decrees, orders or sentences passed by a Judge of the High Court, in the exercise of the original civil and criminal jurisdiction conferred upon it under section 12 or vested in it under any law for the time being in force, shall, when allowed by law, be heard either by a Bench consisting of two other Judges of the High Court or by the Full Bench of the said Court, as the Government of Mysore may, by notification published in the official Gazette, from time to time direct.[1].

High Court's jurisdiction to hear and decide appeals from judgment, etc., of subordinate Courts.

14. (1) The Government of Mysore may, whenever it deems fit, and within such local limits as the Government may, from time to time, declare and appoint, confer upon the High Court by notification published in the official Gazette, jurisdiction to hear and decide all such appeals as are allowed by law to a District Court or Court of Session, from judgments, orders, decrees, or sentences passed by any subordinate Court, civil or criminal, within the local limits aforesaid.

(2) During the continuance of such notification as aforesaid, the jurisdiction conferred thereby upon the High Court shall not be exercised by the District Court or Court of Session in which such jurisdiction would, but for such notification, ordinarily vest, except as regards cases of appeals which may be transferred by the High Court for hearing and disposal by such District Court or Court of Session.

(3) The Government of Mysore may, whenever it deems fit, by notification published in the official Gazette, withdraw any appellate jurisdiction conferred upon the High Court under this section.

1. Second sentence omitted by Act XXXV of 1951.

Appeals other than those under section 13 to be heard by a Bench of Judges.

15. (1) All appeals, civil and criminal, other than appeals referred to in section 13, which lie to the High Court under any law for the time being in force, as well as all cases referred to the High Court for confirmation of a sentence of death, shall be heard by a Bench consisting of not less than two Judges of the said Court.

[1][Provided that second appeals arising out of any suit or proceeding, the amount or value of the subject-matter of which does not exceed three thousand rupees, shall be heard and disposed of by any Judge of the High Court sitting alone and any such Judge may, if he is satisfied that a substantial question of law is involved in the case, refer such second appeal to a Bench of Judges for disposal].

(2) Any Bench of Judges of the High Court may refer to a Full Bench of the said Court any question of law or usage having the force of law, the construction of any document or admissibility of any evidence in any proceeding pending before it[2].

(3) The decision of the majority of Judges comprising any Full Bench of the High Court or other Bench of the said Court consisting of not less than three Judges shall be the decision of the High Court[3].

Power of High Court to transfer cases pending before it.

16. The High Court may, whenever it deems fit, transfer any case pending before it, whether of a civil or criminal nature, and whether original or appellate, to any Court of competent jurisdiction, whether situated within, or beyond, the local limits referred to in sections 12 and 14 of this Act.

Trial by a single Judge of the High Court of cases withdrawn from a subordinate Court.

[4][**16.**-A. (1) Whenever the High Court withdraws an original case, civil or criminal, from the file of a subordinate Court for trial before itself, the High Court shall depute one of its Judges to try such case.

(2) The Judge so deputed shall conduct his proceedings in the same manner and subject to the same procedure as is laid down in section 12 (5) of this Act as regards civil cases and in section 526 of the Code of Criminal Procedure as regards criminal cases, respectively.

1. Added by Act, XXXV of 1951.
2. Certain words omitted by Act, XXIV of 1952.
3. Second sentence omitted by Act, XXXV of 1951.
4. Inserted by Act IV of 1903.

(3) The judgments, decrees, orders and sentences passed by such Judge shall be appealable to the High Court in the same manner and to the same extent as if such judgments, decrees, orders and sentences had been passed by a District Court or Court of Session, as the case may be.

(4) Articles 155 and 156 of the Second Schedule to the Indian Limitation Act, 1877[1], but not Article 151, shall be deemed to be applicable to appeals under the preceding sub-section.]

Power of single Judge to dispose of revision cases himself, or to refer the same to a Bench.

[2]**16-B.** [3]Any Judge of the High Court sitting alone shall have power to hear and dispose of civil and criminal revision cases, and his orders and decisions in such cases shall be final : Provided that any such Judge may, if he thinks fit, instead of disposing of any such case as aforesaid, refer such case to a Bench of two Judges for disposal.

Place of sittings of High Court

17. The High Court shall hold its sittings at such place as the Government of Mysore may, from time to time, appoint in that behalf.

Whenever it appears to the Government of Mysore convenient that the jurisdiction and powers vested in the High Court by this Act, or any other law for the time being in force, should be exercised in any place other than the place appointed under paragraph 1 of this section, or at several of such other places by way of circuit, the Government of Mysore may by order authorize and direct any one or more of the Judges of such Court to hold sittings in such place or places as by such order may be directed, and the Judge or Judges acting under such order shall have and exercise the same jurisdiction and authority as would be had and exercised by a Judge or Judges of the High Court, as the case may be, in its ordinary place of sitting.

Powers which may be conferred upon Chief Justice.

18. The Government of Mysore may, whenever it deems fit to do so, confer upon a Chief Justice all or any of the powers hereunder in this section specified, and may, from time to time, cancel any such order.

The Chief Justice empowered under this section shall exercise all the powers conferred upon him under this section, and the exercise of such powers by him shall be deemed to be the exercise of the same by the High Court under this Act.

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1. Now the First Schedule to Act IV of 1911.
2. Section 16 B. substituted by Act II of 1905.
3. Certain words omitted by Act XXXV of 1951.

The powers referred to in this section are—

[1][* * *]

The distribution of the work of the High Court between himself and the other Judges of the said Court.

Rules for exercise by one or more Judges of powers vested in High Court.

19. Except as herein or by any other enactment for the time being in force otherwise provided, the High Court may make rules to provide, in such manner as it thinks fit, for the exercise, by one or more of its Judges, of any powers conferred on it by this Act or by any other enactment for the time being in force:

[2][* * *]

Power of High Court to make rules.

20. The High Court may, from time to time,—

(*a*) make rules consistent with this Act conferring and imposing on the ministerial officers of the Courts subject to its superintendence such powers and duties of a ministerial nature as it thinks fit, and regulating the mode in which the powers and duties so conferred and imposed shall be exercised and performed;

(*b*) make rules consistent with this Act to determine in what cases Pleaders practising in such Courts shall be permitted to address such Courts in English;

(*c*) prescribe forms for such books, entries, statistics and accounts as it thinks necessary should be kept, made or compiled in such Courts or submitted to any authority;

(*d*) make rules consistent with this Act providing for the inspection of such Courts and supervision of the working thereof;

(*e*) make such rules consistent with this Act, institute such enquiries and submit such recommendations to the Government of Mysore, as it may think fit, with a view to promoting the efficiency of the judicial and ministerial officers of such Courts and maintaining proper discipline among such officers.

Rules and forms under sections 19 and 20 to be submitted for sanction to Government.

21. All rules made and forms prescribed under sections 19 and 20 shall be submitted for sanction to the Government of Mysore, and on receiving such sanction, shall be published in the official Gazette, and shall thereupon have the force of law.

1. Sub-paragraph first and second and the word thirdly omitted by Act XXXV of 1951.

2. Proviso omitted by Act XXXV of 1951.

High Court to keep registers, etc.

22. The High Court shall keep such registers, books and accounts as may be necessary for the transaction of the business of the Court, and shall submit to the Government of Mysore such copies of, or extracts from the said registers, books and accounts, as well as such statements of the work done in the High Court and in the Courts subordinate thereto, as may, from time to time, be required by the Government of Mysore.

Vacations.

[1][**23** (1) In addition to public holidays authorised by the Government of Mysore, the High Court shall have three vacations in each year, namely, Summer, Dasara and Winter.

(2) The total number of days in all the said three vacations shall not exceed eighty days and the period of each vacation in each year shall be fixed by the Chief Justice.]

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1. Substituted by Act XXXV of 1951.

MYSORE ACT No. I OF 1885.

THE YELANDUR JAHGIR ACT, 1885.

(PASSED ON THE 23RD DAY OF MAY 1885.)

WHEREAS, by a Sannad granted by His Highness the Maharaja of Mysore under date the 27th December 1807, the Taluk of Yelandur was granted as Jahgir to the late Dewan Purnaiya and his heirs and successors, in perpetuity, as a reward for the meritorious services rendered by the said Dewan Purnaiya, and in order that his descendants may live in perpetual ease and comfort:

And whereas, with the object of carrying out the purposes of such grant, the Government of Mysore did, at various times, pass orders with the view to regulate the succession to, and define the mode of enjoyment of, the said Jahgir of Yelandur:

And whereas doubts have arisen as to the validity of some of the orders of Government in regard to the said Jahgir, and it is deemed expedient to remove such doubts and to make adequate provision for the maintenance of the dignity of the head of the family of the said Dewan Purnaiya and for the support of the subordinate members thereof: His Higness the Maharaja is pleased to enact as follows :—

1. This Act may be called "The Yelandur Jahgir Act, 1885".

And it shall come into force upon the passing thereof.

2. (1) The Jahgir of Yelandur, as constituted by the Sannad granted by His Highness Krishnaraja Wodeyar, the Maharaja of Mysore, to the said Dewan Purnaiya, dated the 27th December 1807, and consisting of the villages enumerated in the Schedule A appended to this Act, shall be inalienable and impartible; and it shall not be competent for the Jahgirdar of Yelandur for the time being to encumber, charge, or in any manner alienate the said Jahgir or any part thereof by act *inter vivos* or by testamentary disposition.

(2) The family of the said Dewan Purnaiya shall, for the purposes of this Act, comprise and include the existing members named and enumerated in the order of their respective seniority under five branches in Schedule B

appended to this Act, and their lineal descendants whether by blood or adoption according to the rules and usages of the Hindu Law ; also any other legal heirs, male or female, of the said lineal descendants in the ascending, descending or collateral lines.

(3) Subject to the other provisions of this Act, the said Jahgir of Yelandur and the full proprietary rights therein shall vest in, and be held and enjoyed by, one person only at a time who shall be called "The Jahgirdar of Yelandur" and to whom all other members of the family of the said Dewan Purnaiya shall be subordinate. Purnaiya Narasinga Rao Krishna Murthi being the eldest male person for the time being descended from the said Dewan Purnaiya in the senior male line is hereby declared to be the present Jahgirdar of Yelandur.

(4) The succession to the said Jahgir shall, except in so far as is in this Act, otherwise provided, be regulated by the rules and usages of the Hindu Law of Inheritance and Adoption.

The succession to the said Jahgir shall devolve upon the lineal descendants and other legal heirs of the family of the said Dewan Purnaiya as above defined :

Provided that the lineal descendants and other legal heirs of the persons named and enumerated in the first branch in the aforesaid Schedule B, shall be preferred to, and shall be entitled to succeed before, the lineal descendants and other legal heirs of the persons named and enumerated in the second and every other branch in the Schedule B aforesaid ; and on failure of the lineal descendants and other legal heirs of the persons named and enumerated in the first branch, the lineal descendants and other legal heirs of the persons named and enumerated in the second and every other branch shall be entitled to succeed according to the order of the branches in the Schedule B aforesaid, successively one branch after the other, the lineal descendants and other legal heirs of any one branch to be preferred to, and to be entitled to succeed before, the lineal descendants and other legal heirs of the branch next to it, and so on in the order specified in the aforesaid Schedule B :

Provided further that as between the lineal descendants and other legal heirs in any branch aforesaid, the said Jahgir and the full proprietory rights therein shall,

notwithstanding any rule or custom of Hindu or other law to the contrary, vest in the person who may be :—

Firstly.—So long as there are male descendants in any male line in the aforesaid branch, the eldest male person to any degree of descent of that line which shall be for the time being senior of all the collateral lines.

Secondly.—On the failure of such male descendants in any male line within that branch, the eldest female legal heir for the time being or the eldest surviving female descendant, or her eldest male descendants, as the case may be, entitled to inherit under Hindu Law and usage, of the last male descendant in the male line in whom the said Jaghir shall have been vested :

Provided further that on failure of such male descendants, female legal heirs, and female descendants, and their descendants, of the first and every other branch successively specified in the Schedule B aforesaid, the said Jahgir and the full proprietary rights therein shall vest in and be held and enjoyed by the eldest and the most proximate descendant, or legal heir of the said Dewan Purnaiya who may be then living, male being preferred to female, and by his or her descendants and other legal heirs.

(5) When there is a natural lineal descendant of the said Dewan Purnaiya eligible and available for adoption in accordance with Hindu Law and usage, the adoption of any other person shall not be valid for the purpose of succession to the Jahgir.

3. (1) Out of the revenues of the Jahgir of Yelandur, the sum of Rs. 23,200 shall be distributed by the Jahgirdar for the time being among himself and the otherdescendants of the said Dewan Purnaiya in the various branches of descent by way of annuities as specified hereunder :—

		Rs.
1st Branch.—		
1	P. N. Krishna Murti, eldest son of the late Narasinga Rao	6,000
2	P. N. Purnaiya, 2nd son of the late Narasinga Rao	10,000
	Total for 1st Branch ...	16,000
2nd Branch.—		
1.	Krishna Murti, son, adopted by Rukmini Bayi, widow of the late Vithal Murti ...	1,200

3rd Branch.—

1.	Jaya Narasinga Rao, son, adopted by Bhagirati Bayi, widow of the late Anantaramappa.	1,200

4th Branch.—

1.	Rama Rao, son, adopted by Venkamma, widow of the late Subba Rao	1,200

5th Branch.—

1.	Narasamma, daughter of Dattu Rama Rao ...	3,600
		23,200

The remainder of the revenue of the said Jahgir, after payment of annuities above specified, shall be at the absolute disposal of the Jahgirdar of Yelandur for the time being :

Provided that the annuity to Rama Rao, adopted son of Venkamma, shall not become payable till after the death of the said Venkamma, and that the annuity payable to Krishna Murti, adopted son of Rukmini Bayi, shall not become payable till after the death of the said Rukmini Bayi, the said Venkamma and Rukmini Bayi continuing, during their lifetimes, to receive annuities of Rs. 7,000 and Rs. 300, respectively.

(2) The annuities payable under the first para of this section shall not be alienable by sale, gift, charge, will or otherwise, but shall be subject to the rules and usage of the Hindu Law of Succession and Partition : Provided that when there is a natural lineal descendant of the said Dewan Purnaiya eligible and available for adoption in accordance with the Hindu Law and usage, the adoption of any other person shall not be valid for the purpose of succession to the whole or part of any annuity referred to in this section.

4. Upon the failure of heirs within any branch of the family specified in Schedule B aforesaid, one-half of the annuity for that branch shall be at the disposal of the Jahgirdar of Yelandur for the time being, and the other half shall be distributed rateably among the remaining branches in the proportion of the amounts of annuities specified for such branches in schedule B aforesaid, the amount thus distributable to each branch being further distributed among the members of that branch according to their shares under Hindu Law and usage.

5. (1) No Civil Court shall entertain any suit relating to any interest in the Jahgir of Yelandur, or to the whole or part of any annuity payable under this Act.

(2) Any person having a claim to the said Jahgir of Yelandur may prefer such claim to the Government of Mysore, which shall enquire into such claim and pass its decision thereon in accordance with this Act.

(3) Any person having a claim to the whole or part of an annuity payable under this Act may prefer such claim to the Jahgirdar of Yelandur for the time being, who shall enquire into such claim and pass his decision thereon in accordance with this Act. From any such decision passed by the Jahgirdar of Yelandur, an appeal shall lie to the Government of Mysore, whose orders upon such appeal shall be final.

6. (1) If, in the investigation of any claim referred to in the last preceding section, there arises any question on which the Government of Mysore desires to have the opinion of the High Court of Mysore, the Government may cause a statement of the question to be prepared and may refer such question for the opinion of the High Court.

(2) The High court shall fix an early day for the hearing of the question referred, and cause notice of such day to be placed in the Court house.

(3) The parties to the case may appear and be heard in the High Court in person or by their Advocates or Pleaders.

(4) The High Court, when it has heard and considered the case, shall send a copy of its opinion with the reasons therefor under the seal of the Court to the Government, and the case shall be disposed of conformably to such opinion.

(5) The High Court, if it considers that any such statement is imperfectly framed, may return it for amendment.

(6) The costs, if any, consequent on such reference shall be dealt with as the High Court in each case recommends.

7. The Jahgir of Yelandur and the revenues thereof and the annuities payable under this Act shall not be liable to seizure or attachment by process of any Civil Court.

8. The Government of Mysore may, from time to time, frame such rules as may be necessary for the purpose of appointing the time, place and mode of the payment of

the annuities referred to in section 3, and for the purpose of enforcing the payment of such annuities and the orders passed under section 5. Such rules shall not be inconsistent with this Act, shall be published in the Official Gazette and shall have the force of law.

SCHEDULE A REFERRED TO IN PARA (2), SECTION 2.

Kasba Yelandur and its Dakhale Villages...	6 Villages.
Ambale	6 Villages.
Yergamballi	9 Villages.
Yeriyur Kestur	5 Villages.
Agara	9 Villages.
Maddur	11 Villages.

SCHEDULE B REFERRED TO IN PARA (2), SECTION 2.

1st Branch :—

1. Purnaiya Narasinga Rao Krishna Murti, eldest son of the late Narasinga Rao.
2. Purnaiya Narasinga Rao Purnaiya, 2nd son of the late Narasinga Rao

2nd Branch :—

1. Krishna Murti, son adopted by Rukmini Bayi, widow of the late Vithal Murti.

3rd Branch :—

I. Jaya Narasinga Rao, son adopted by Bhagirati Bayi, widow of the late Anantaramappa.

4th Branch :—

1. Rama Rao, son adopted by Venkamma, widow of the late Subba Rao.

5th Branch :—

1. Narasamma, daughter of Dattu Rama Rao.

MYSORE ACT No. II OF 1885.

[1]THE EXCISE (SPIRITS) ACT, 1885.

(Received the assent of His Highness the Maharaja on the 15th day of September 1885).

An Act to make special provisions for the levy of the Excise Duty payable on spirits used exclusively in Arts and Manufactures or in Chemistry.

WHEREAS it is expedient to apply to the Territories of Mysore Act XVI of 1863 of the Governor-General of India in Council, His Highness the Maharaja is pleased to enact that the aforesaid Act XVI of 1863 shall have the force of law in the [[2]State of Mysore except Bellary District,] with the modifications and omissions hereunder mentioned, and with effect from the first day of October 1885.

In Section 1. For "calculated at ten per cent," substitute "not exceeding five per cent."

2. For "British India," read "the Territories of Mysore" and for "Board of Revenue" and "Local Government" read "the Government of His Highness the Maharaja of Mysore."

3. Omit Section 8.

ACT No. XVI OF 1863 AS EXTENDED TO MYSORE BY MYSORE ACT II OF 1885.

An Act to Make special provision for the levy of the Excise Duty payable on spirits used exclusively in Arts and Manufactures or in Chemistry.

WHEREAS it is expedient to make special provision for the levy of the Excise Duty payable on Spirits used exclusively in Arts and Manufactures or in Chemistry; it is enacted as follows:— Preamble.

I. Spirits intended to be used exclusively in Arts and Manufactures or in Chemistry may be removed from any licensed Distillery in any part of the [2][State of Mysore except Bellary District] on payment of duty not exceeding five per cent on the value of the spirits: Provided that no Such spirits may be removed from Distillery on payment of duty, on condition.

1. See Mysore Act VIII of 1949.
2. See the Mysore Adaptation of laws Order, 1953.

Spirits shall be so removed until they have been effectually and permanently rendered unfit for human consumption.

Rules for ascertaining and determining that spirits to be removed have been rendered unfit for human consumption, etc.

II. The Government of His Highness the Maharaja, or other Authority specially authorized in that behalf by the Government of His Highness the Maharaja shall prescribe, from time to time, subject to the approval of the Government of His Highness the Maharaja, rules for ascertaining and determining that Spirits proposed to be removed for the purposes aforesaid have been effectually and permanently rendered unfit for human consumption, as required by Section I of this Act; for causing such Spirits to be so rendered, if necessary, by its own officers at the expense of the person who wishes to remove them; and for fixing the value of the Spirit on which the *ad valorem* duty shall be levied.

Penalty for breach of such rules.

III. Every person who shall wilfully contravene any rule prescribed by the Government of His Highness the Maharaja or other Authority as aforesaid, under the last preceding section of this Act, shall be liable on conviction before any Officer exercising the powers of a Magistrate to a penalty not exceeding five hundred rupees for every such offence.

Penalty for attempting to render fit for human consumption spirits removed under this Act.

IV. Every person who shall attempt, or shall connive at an attempt, to render fit for human consumption Spirits removed from a Distillery under the provisions of this Act, shall be liable to penalty not exceeding one thousand rupees; and the possessor of such Spirits on which such attempt has been made, or which may have been rendered fit for human consumption, shall be liable on conviction before any Officer exercising the powers of a Magistrate to a penalty not exceeding five hundred rupees.

Such penalty how to be levied.

V. Any penalty imposed under either of the last two preceding sections may, in case of non-payment, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand of the officer by whom such penalty was imposed.

In case of non-payment of penalty offender may be detained pending return to distress warrant.

VI. In case any such penalty shall not be forthwith paid, any such Officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprisonment of offender in case of failure to recover penalty by distress.

VII. If, upon the return of such warrant, it shall appear that no sufficient distress can be had whereon to levy such penalty, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such officer by the confession of the offender or otherwise that he has not sufficient goods and chattels whereupon such penalty could be levied if a warrant of distress were issued, any such Officer may by warrant under his hand commit the offender to the Civil Jail, there to be imprisoned, according to discretion of such officer, for any term not exceeding two calendar months when the amount of penalty shall not exceed fifty rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred rupees and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

VIII. *Omitted.*

Confiscation in cases of conviction under Section III or IV.

IX. In every case of conviction under Section III or Section IV of this Act the liquor or spirits with the cask or vessel containing the same, and the cart, boat, and animal or animals employed in carrying such liquor or spirit shall be liable to confiscation.

THE MYSORE LAND REVENUE CODE, 1888.

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Form of Security to be subjoined to the Bond of the Principal.

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MYSORE ACT No. IV OF 1888.

THE MYSORE LAND REVENUE CODE, 1888.

(PASSED ON THE 22ND DAY OF NOVEMBER 1888.)

An Act to consolidate and amend the law relating to Revenue Officers and Land Revenue in the [1][whole of the State of Mysore except Bellary District.]

WHEREAS it is expedient to consolidate and amend the law relating to Revenue Officers and to the assessment and recovery of land revenue, and to other matters connected with the Land Revenue administration; His Highness the Maharaja is pleased to enact as follows :— Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be cited as "The Mysore Land Revenue Code, 1888." Short title.

It extends to the [1][whole of the State of Mysore except Bellary District.] Local extent.

It shall come into force on the 1st day of April 1889. Commencement.

2. The Acts, Rules, Notifications and Orders mentioned in the Schedule 'A' hereto annexed are repealed, but not so as to render invalid anything done in accordance with any of them. Enactments repealed.

All references made in any Act, Rule, Notification, or Order, to any enactment hereby repealed, shall be read as if made to the corresponding portion of this Act.

And all rules prescribed, appointments made, securities furnished, powers conferred, orders issued, and notifications published under any such enactment, and all other rules (if any) now in force and relating to any of the matters hereinafter dealt with, shall (so far as they are consistent with this Act) be deemed to have been respectively prescribed, made, furnished, conferred, issued and published hereunder.

And all proceedings now pending which have been commenced under any enactment hereby repealed shall be deemed to have been commenced under this Act, and

1. See the Mysore Adaptation of Laws Order, 1963.

shall hereafter be conducted in accordance with the provisions of this Act.

Interpretation section.

3. In this Act, unless there be something repugnant in the subject or context,—

Revenue officer.

(1) "revenue officer" means every officer of any rank whatsoever employed in or about the business of the land revenue, or of the surveys, assessment, accounts or records connected therewith:

Survey Officer.

(2) "survey officer" means an officer appointed under, or in the manner provided by section 17 of this Act:

Land.

(3) "land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth, and also shares in, or charges on, the revenue or rent of villages, or other defined portions of territory:

Estate.

(4) "estate" means any interest in land and the aggregate of such interests vested in a person or aggregate of persons capable of holding the same:

Survey number.

(5) "survey number" means a portion of land of which the area and other particulars are separately entered under an indicative number in the survey records of the village, town or city in which it is situated, and includes a recognised share of a survey number:

Recognised share of a survey number.

(6) "recognised share of a survey number" means subdivision of a survey number separately assessed and registered:

Building site.

(7) "building site" means a portion of land held for building purposes, whether any building be actually erected thereupon or not, and includes the open ground or court-yard enclosed by, or adjacent to, any building erected thereupon:

Boundary mark.

(8) "boundary mark" means any erection, whether of earth, stone or other material, and also any hedge, vacant strip of ground, or other object, whether natural are artificial, set up, employed, or specified by a survey officer or other revenue officer having authority in that behalf, in order to designate the boundary of any division of land:

(Chapter I—Preliminary)

(9) "to hold land" means to be legally invested with a right to the possession and enjoyment or disposal of such land, either immediate or at the termination of tenancies legally subsisting: To hold land.

(10) "holder" or "landholder" signifies the person in whom a right to hold land is vested, whether solely on his own account or wholly or partly in trust for another person, or for a class of persons or for the public. It includes a mortgagee vested with a right to possession: Holder or landholder.

(11) "holding" signifies land over which such right extends: Holding.

(12) "tenant" signifies a person who holds by a right derived from a superior holder called his "landlord" or from his landlord's predecessors in title, and is, or, but for a special contract, would be liable to pay rent for such land to his landlord: Tenant, landlord.

(13) "rent" signifies whatsoever is paid or delivered in money or kind, or whatever service is rendered, by a tenant on account of the use or occupation of land let to him. Rent.

(14) "superior holder" signifies a holder entitled to receive from other holders rent or land revenue on account of lands held by them, whether or not such holder pays land revenue to Government on account of such lands: Superior holder.

(15) "inferior holder" signifies a holder liable to pay rent or land revenue to a superior holder: Inferior holder.

(16) "occupant" signifies a holder of unalienated land, or when there are more holders than one, the holder having the highest right in respect of any such land, or where such highest right vests equally in more holders than one, any one of such holders: Occupant.

(17) "registered occupant" signifies a sole occupant or the eldest or principal of several joint occupants whose name is authorizedly entered in the Government records as holding unalienated land whether in person or by his co-occupant, tenant, agent, servant, or other legal representative: Registered occupant.

(18) "occupancy" signifies the sum of the rights vested in an occupant as such: Occupancy.

Alienated. (19) "alienated" means transferred in so far as rights of Government to payment of the rent or land revenue are concerned, wholly or partially, to the ownership of any person.

Village, town or city. (20) the word "village", "town" or "city" includes all lands belonging to such village, town or city:

Revenue year. [1][(21) the words 'revenue year' mean the period from and exclusive of the 30th June of one calendar year until and inclusive of the 30th June in the next calendar year. The revenue year 1891-92 shall consist of fifteen months running from 1st April 1891 to 30th June 1892, both days inclusive:]

Section. (22) "section" means a section of this Act:

This Chapter. (23) the words "this Chapter" mean the Chapter of this Act in which those words occur:

Village accountant. (24) "village accountant" means the officiator shanbhog, and includes every person performing any of the duties of the shanbhog.

Government. (25) "Government" means the Government of His Highness the Maharaja of Mysore.

CHAPTER II.

CONSTITUTION AND POWERS OF REVENUE OFFICERS.

Chief Controlling authority in revenue matters. [2][**4.** (1) The Chief Controlling authority in all matters connected with the land revenue is vested in the Revenue Commissioner, subject to Government.

Powers and duties of Revenue Commissioner. (2) The Revenue Commissioner shall be appointed by Government, and shall exercise the powers and discharge the duties conferred and imposed on the Revenue Commissioner under this Act, or under any other law for the time being in force, and so far as is consistent therewith, all such other powers or duties of appeal, superintendence and control within the [3][whole of the State of Mysore except Bellary District,] and over the officers subordinate to him, as may, from time to time, be prescribed by Government.

1. Substituted by Act III of 1892.
2. Substituted by Act VI of 1906
3. See the Mysore Adaptation of Laws Order, 1956.

(Chapter II—Constitution and Powers of Revenue Officers)

(3) The Revenue Commissioner shall have such number of Assistants as the Government may, from time to time, sanction, their appointment being made by Government. Assistants so appointed shall perform such duties as the Revenue Commissioner may, from time to time, direct.] Assistants to Revenue Commissioner.

5. The [1][whole of the State of Mysore except Bellary District] shall be divided into such manner of districts with such limits as may, from time to time, be prescribed by a duly published order of the Government. Mysore to be divided into districts.

And each such district shall consist of such number of taluks, and each taluk shall consist of such number of villages, as may, from time to time, be prescribed in a duly published order of the Government. A district to consist of taluks, and a taluk of villages.

The present districts, taluks and villages shall remain as they are for the purposes of this Act until altered by the Government. Present districts, taluks, etc.

6. The Government shall appoint in each district an officer who shall be called the Deputy Commissioner of the district, [2][and shall be subordinate to the Revenue Commissioner] and who may exercise, throughout his district, all the powers and discharge all the duties conferred and imposed on a Deputy and Assistant Commissioner by this Act, or any other law for the time being in force, and in all matters not specially provided for by law shall act according to the instructions of the Government. Deputy Commissioner of district.

7. The Government may appoint to each district as many Assistant Commissioners as it may deem expedient. Assistant Commissioners.

All such Assistant Commissioners and all other officers employed in the land revenue administration of the district shall be subordinate to the Deputy Commissioner. To be subordinate to Deputy Commissioner.

8. (1) The Government may place any Assistant Commissioner in-charge of the revenue administration of one or more of the taluks in a district. Assistant Commissioners in charge of taluks.

(2) Any Assistant Commissioner thus placed in-charge shall, so far as regards the taluk or taluks in his charge, perform such of the duties and exercise such of the powers imposed and conferred upon the Deputy Commissioner by Their duties and powers.

1. See the Mysore Adaptation of Laws Order, 1953.
2. Inserted by Act VI of 1906.

this Act, or by any other law at the time being in force, as the Government may, by a general or special order, from time to time, direct.[1]* * * * *

(3) To such Assistant Commissioner as may not be placed in charge of taluks, the Deputy Commissioner shall, under the general or special orders of the Government, assign such particular duties and powers as he may, from time to time, see fit.

Deputy Commissioner of district in case of temporary vacancy.

9. If the Deputy Commissioner is disabled from performing his duties, or for any reason vacates his office, or leaves his district, or dies, his Assistant of highest rank present in the district shall, unless other provision has been made by the Government, succeed temporarily to his office and shall be held to be the Deputy Commissioner of the district under this Act, until the Deputy Commissioner resumes charge of his district, or until the Government appoints a successor to the former Deputy Commissioner, and such successor takes charge of his appointment.

The Amildar and his appointment.

10. The chief officer entrusted with the local revenue administration of a taluk shall be called an Amildar. He shall be appointed by the Government.

His duties and powers.

His duties and powers shall be such as may be expressly imposed or conferred upon him by this Act, or by any other law for the time being in force, or as may be imposed upon or delegated to him by the Deputy Commissioner under the general or special orders of the Government. He shall, after the passing of this Act, continue to perform the duties and exercise the powers at present performed and exercised by him until such time as he is otherwise directed by competent authority.

The Deputy Amildar, his duties and powers.

11. Whenever it may appear necessary, the Government may appoint a Deputy Amildar to be in charge of a defined portion of a taluk and may assign to him within his local limits such of the duties and powers of an Amildar as may, from time to time, be considered necessary. The Deputy Amildar's immediate superior authority shall, for the purposes of section 210 of this Act, be deemed to be the Assistant Commissioner in charge of the taluk, or, if no Assistant Commissioner is placed in charge of the taluk, the Deputy Commissioner.

1. Certain words were omitted by Act VI of 1906.

(Chapter II—Constitution and Powers of Revenue Officers)

Amildar or Deputy Amildar may depute subordinates to perform certain of his duties.

12. It shall be competent to an Amildar or Deputy Amildar, subject to such general orders as may, from time to time, be passed by the [1][Revenue Commissioner] or by the Deputy Commissioner, to employ any of his subordinates to perform any portion of his ministerial duties:

Provided that all acts and orders of his subordinates when so employed shall be liable to revision and confirmation by such Amildar or Deputy Amildar.

Amildar in case of temporary vacancy.

13. If an Amildar is disabled from performing his duties, or for any reason vacates his office or leaves his taluk, or dies, either the Deputy Amildar, or, if there is no Deputy Amildar in the taluk, the Sheristedar of the taluk shall succeed temporarily to the said Amildar's office, and shall be held to be the Amildar under this Act, until the Amildar resumes charge of his taluk, or until such time as a successor is duly appointed and takes charge of his appointment.

Stipendiary patel and village accountant to be appointed where no hereditary patel or village accountant exists.

14. In villages where no hereditary patel or village accountant exists, it shall be lawful for the Deputy Commissioner, under the general orders of the Government [2][and of the Revenue Commissioner] to appoint a stipendiary patel or village accountant, who shall perform respectively all the duties of hereditary patels or village accountants as hereinafter prescribed in this Act, or in any other law for the time being in force, and shall hold their situations under the rules in force with regard to subordinate revenue officers.

Saving of rights of holders of alienated villages.

Nothing in this section shall be held to affect any subsisting rights of holders of alienated villages or others in respect of the appointment of patels and village accountants in such alienated or other villages.

Village accountant to keep such records as he may be required to keep by Government.

15. [1][Subject to the general orders of Government, the Revenue Commissioner] shall prescribe, from time to time, what registers, accounts and other records shall be kept by the village accountant, and pending the first issue of orders under this section, the village accountant shall continue to keep all such registers, accounts and other records as he may hitherto have been required to keep.

And to prepare public writings.

It shall also be the duty of the village accountant to prepare, whenever called upon by the patel of his village

1. Substituted for the word "Government" by Act VI of 1906.
2. Inserted by Act VI of 1906.

or by any superior revenue or police officer of the taluk or district to do so, all writings connected with the concerns of the village which are required either for the use of the Government or the public, such as notices, reports of inquests, and depositions and examinations in criminal matters.

Holder of alienated village to keep such records as are prescribed by Government.

16. (1) Every holder of an alienated village shall be bound to keep such registers, accounts, and other records as may, from time to time, be prescribed by Government to be kept for alienated villages. He shall be responsible for the punctual and correct preparation of such registers, accounts and other records, and shall deposit with the Deputy Commissioner true copies of such of them as the Government may, either by a general or special order, from time to time direct.

Village accountant in alienated village to keep such records.

(2) Where there is a village accountant, it shall be his duty to prepare and keep the registers, accounts and other records referred to in this section, under the control of the holder of the alienated village or his agent.

Procedure on failure of holder of alienated village to keep registers, etc.

(3) When the holder of the alienated village fails to keep any registers, accounts or other records or to deposit copies of them with the Deputy Commissioner, in accordance with the provisions of this section, it shall be lawful for the Deputy Commissioner to cause such registers, accounts or other records or copies of them to be prepared by any other person and to levy the cost of such preparation from the holder of the alienated village, as if it were a revenue demand.

Survey officers.

17. For the purposes of Chapters VIII, IX and X of this Act, the Government may appoint such officers as it may, from time to time, consider necessary. Such officers shall be designated "Superintendent and Deputy Superintendent of Survey and Settlement", "Survey Settlement Officer", and "Assistant Superintendent", or otherwise as may seem requisite, and shall be subordinated one to the other, in such order as the Government may direct.

Their duties and powers.

Subject to the orders of the Government, the officers so appointed are vested with the cognizance of all matters connected with survey and settlement, and shall exercise all such powers and perform all such duties as may be prescribed by this or any other law for the time being in force.

(Chapter II—Constitution and Powers of Revenue Officers)

Combination of offices.

18. It shall be lawful for the Government to appoint one and the same person, being otherwise competent according to law, to any two or more of the offices provided for in this Chapter, or to confer upon an officer of one denomination all or any of the powers or duties of any other officer or officers within certain local limits or otherwise as may seem expedient.

Certain appointments to be notified.

19. The appointment of all officers mentioned in sections 6, 7, 8, 10, 11, 17 and 18 shall be duly notified in the Official Gazette.

Acting appointments.

Any officer appointed to act temporarily for any such officer shall exercise the same powers and perform the same duties as might be performed or exercised by the officer for whom he is so appointed to act.

Establishments.

20. Subject to the rules or orders made under section 233, the appointment of all members of the establishments of the undermentioned officers shall, unless otherwise directed by Government, be made by those officers respectively, namely,—

[1][the Revenue Commissioner;]

the Deputy Commissioner;

the Superintendent of Survey;

any other officers whom the Government may hereafter direct.

The appointment of all members of the establishments of all other officers mentioned in the foregoing sections of this Chapter and the appointment of all other subordinate revenue officers not hereinbefore provided for, shall be made in their respective departments by the Deputy Commissioner and the Superintendent of Survey:

Provided that it shall be lawful for them to delegate such portion of this power as they may deem fit to any subordinate officer, but subject to the retention of a right of revision at any time of the appointments which may be made by such subordinate officers.

[2] * * * *

Seals.

21. The Government shall, from time to time, by notification prescribe what revenue officers shall use a seal and what size and description of seal shall be used by each of such officers. Pending the issue of the first orders under this section, the seals hitherto used shall continue to be used by such officers as have used them.

1. Inserted by Act VI of 1906.
2. The second proviso was omitted by Act VII of 1919.

(*Chapter III—Of the Security to be furnished by certain Revenue Officers and the Liability of Principals and Sureties.*)

CHAPTER III.

OF THE SECURITY TO BE FURNISHED BY CERTAIN REVENUE OFFICERS AND THE LIABILITY OF PRINCIPALS AND SURETIES.

Government to direct what officers shall furnish security and for what amount.

22. It shall be lawful for the Government to direct that such revenue officers as it deems fit shall, previously to entering upon their office, furnish security to such amount as Government may in each case deem expedient, either by deposit of Government paper duly endorsed, accompanied by power to sell, or by deposit of cash in a Government Treasury or Government Savings Bank to the credit of the Government, or by the conveyance to the Government of approved immovable property, whose estimated value may bear to the amount of security required any proportion prescribed by the Government, or by a bond in the form contained in Schedule B to this Act.

The amount for which such security shall be furnished may be varied, from time to time, by order of the Government, which shall also determine the number of sureties to be required when security is taken in the form of Schedule B.

Fresh or additional security.

23. The Deputy Commissioner or the Superintendent of Survey may, at any time after security has been given by a revenue officer subordinate to him, if it appear to him that the security taken is unsatisfactory, or if the officer is transferred to an office for which large security is required, or for other sufficient reason, demand fresh or additional security, and, in case of the officer failing to give such security within such time not less than one month as the Deputy Commissioner or Superintendent of Survey may fix after its being required of him, may suspend or dismiss him:

Proviso.

Provided always that no greater security shall be demanded than is required by the orders of the Government under the last preceding section.

Demands for money, papers, etc., to be made known in writing to persons concerned.

24. The Deputy Commissioner or the Superintendent of Survey, or any officer deputed by the Deputy Commissioner or Superintendent of Survey for this purpose, shall, in all cases in which he may have a claim on any revenue officer or any person formerly employed as such in his district or department for public money or papers or

(*Chapter III—Of the Security to be furnished by certain Revenue Officers and the Liability of Principals and Sureties*).

other Government property, by writing under his official seal, if he use one, and signature, require the money or the particular papers or property detained to be delivered either immediately to the person bearing the said writing, or to such person on such date and at such place as the writing may specify.

Who may be arrested and confined in jail if he fails to produce them.

If the officer or other person as aforesaid shall not discharge the money, or deliver up the papers or property as directed, or fail to assign sufficient cause for non-compliance with the requisition made as aforesaid, the Deputy Commissioner or the Superintendent of Survey may cause him to be apprehended, and may send him with a warrant, in the form of Schedule C, to be confined in the civil jail till he discharges the sums or delivers up the papers or property demanded from him:

Confinement not to exceed one month.

Provided that no person shall be detained in confinement by virtue of such warrant for a longer period than one calendar month.

Public moneys may also be recovered as arrears of revenue.

25. The Deputy Commissioner, of his own motion, if the officer or other person is or was serving in his department and district, and upon the application of the Superintendent of Survey if such officer or person is or was serving in the Survey Department in his district, may also take proceedings to recover any public moneys due by him in the same manner and subject to the same rules as are laid down in this Act for the recovery of the arrears of land revenue from defaulters; and for the purpose of recovering public papers or other property appertaining to Government, may issue a search warrant and exercise all such powers with respect thereto as may be lawfully exercised by a Magistrate under the provisions of Chapter VII of the Criminal Procedure Code, 1882.[1]

Search warrants may be issued for recovery of papers or property.

Persons in possession of public moneys, etc., bound to give them up.

It shall be the duty of all persons in possession of such public moneys, papers or other property appertaining to Government to make over the same forthwith to the Deputy Commissioner, and every person knowing where any such property is concealed shall be bound to give information of the same to the Deputy Commissioner.

Surety liable in the same manner as principal.

26. The surety or sureties of such officer or other person as aforesaid, who may enter into a bond in the form of

1. See now Chapter VI of Act II of 1904.

(*Chapter III—Of the Security to be furnished by certain Revenue Officers and the Liability of Principals and Sureties.*)

Schedule B, shall be liable to be proceeded against jointly and severally in the same manner as his or their principal is liable to be proceeded against in case of default, and notwithstanding such principal may be so proceeded against:

Extent of liability.

Provided always that in any case of failure to discharge or make good any sum of money due to Government or to produce any property of Government of ascertained value, no greater sum than is sufficient to cover any loss or damage which the Government may actually sustain by the default of the principal, shall be recovered from the surety or sureties, as the amount which may be due from such surety or sureties under the terms of the security bond executed by him or them:

Surety or sureties not liable to imprisonment if penalty be paid.

And provided also that the said surety or sureties shall in no case be liable to imprisonment in default of producing public papers or property, if he or they pay into the Government Treasury the whole or such part of the penalty named in the bond as may be demanded.

An officer or surety in jail may, by furnishing certain security, obtain his release.

27. If an officer or other person as aforesaid, or his surety or sureties, against whom a demand is made, shall give sufficient security in the form of Schedule D, the Deputy Commissioner or Superintendent of Survey, as the case may be, shall cause such officer or surety if in custody to be liberated, and countermand the sale of any property that may have been attached, and restore it to the owner or other person from whose possession such property may have been seized.

Liability of surety not affected by death of principal or by his taking different appointment.

28. The liability of the surety or the sureties shall not be affected by the death of a principal, or by his appointment to a situation different from that which he held when the bond was executed, but shall continue so long as the principal occupies any situation in which security is required under section 22 and until his bond is cancelled.

Liability of heirs of deceased officer.

The heirs of a deceased officer shall be bound to deliver to Government all public money or papers or other Government property which may have come into their possession or control, and they may be proceeded against in the same manner as the deceased officer, if alive, could have been proceeded against:

(*Chapter IV—Of certain Acts prohibited to Revenue Officers and of their Punishment for Misconduct*).

Provided that when money is claimed, the heirs shall be liable only to the extent of assets inherited by them from the deceased.

How surety may withdraw from further liability.

29. Any surety, whether under a separate or joint bond, may withdraw from his suretyship at any time, on his stating in writing to the officer to whom the bond has been given, that he desires so to withdraw; and his responsibility under the bond shall cease after sixty days from the date on which he gives such writing, as to all demands upon his principal concerning moneys, papers or other property for which his principal may become chargeable after the expiration of such period of sixty days, but shall not cease as to any demands for which his principal may have become liable before the expiration of such period, even though the facts establishing such liability may not be discovered till afterwards.

CHAPTER IV.

OF CERTAIN ACTS PROHIBITED TO REVENUE OFFICERS AND OF THEIR PUNISHMENT FOR MISCONDUCT.

Prohibited acts.

30. (1) No revenue officer shall, except with the express permission of the Government,—

Not to trade.

(*a*) engage in trade, or be in any way concerned, directly or indirectly, either as principal or agent, in any commercial transaction whatever; or

Not to purchase at public sale.

(*b*) purchase, or bid for, either in person or by agent or in his own name, or in the name of another, or jointly, or in shares with others, any property which may, under the provisions of this Act or of any other law for the time being in force, be sold by order of any revenue or judicial authority in the district in which such officer is at the time employed.

(2) And no revenue officer shall—

Not to make private use of public money or property.

(*a*) derive either for himself or for any other individual any profit or advantage beyond his lawful salary or emolument from any public money or property with the collection or charge of which he is entrusted or connected; or

(Chapter IV—Of certain Acts prohibited to Revenue Officers and of their Punishment for Misconduct).

Not to make or receive undue exactions or presents.

(*b*) demand or receive under the colour or by the exercise of his authority as such revenue officer or by way of gratification or otherwise, or knowingly permit any other person to demand or receive on his behalf, any sum or any consideration whatever over and above what he is legally entitled to demand or receive under the provisions of this Act or of any other law for the time being in force :

Proviso.

Provided that the restriction mentioned in paragraph (1) of this section shall not apply—

(*a*) to a village officer, or

(*b*) to a revenue officer under the grade of a Taluk Sheristedar who may have obtained the permission of the Deputy Commissioner or Superintendent of Survey to whom he may be subordinate, as the case may be, unless such officer is himself appointed to conduct the sale under paragraph (1) (*b*).

Power of fining, reducing suspending and dismissing in whom to vest.

31. Subject to rules or orders made under section 233, all revenue officers may be fined, reduced, suspended or dismissed for any such offence as is described in the last preceding section, or for any breach of departmental rules or discipline, or for carelessness, unfitness, neglect of duty, or other misconduct, by the authority by whom such officer is appointed, or by any authority superior to such authority ; and this power may be delegated by such first named authority in whole or in part to any subordinate officer on the same condition that the power of appointment may be delegated under section 20.

All such orders to be made in writing.

32. When any revenue officer passes an order for fining, reducing, suspending or dismissing any subordinate officer, he shall record such order or cause the same to be recorded, together with the reasons therefor, in writing under his signature in the Kanarese language or in English.

Appeals againt such orders.

An appeal against an order under this section shall lie to the authority immediately superior to the officer passing the order, and the decision of such authority shall be final, except in cases in which the subordinate fined, reduced, suspended or dismissed is a Taluk Sheristedar or

has been drawing a monthly salary exceeding Rs. 40, in which case there shall be an appeal to [1][the Revenue Commissioner.]

Fine not to exceed two months' pay.

33. No fine inflicted under the foregoing provisions shall in any case exceed the amount of two months' pay of the office held by the offender at the time of the commission of the offence.

And how recovered.

34. All fines inflicted under this Chapter may be recovered from the officer's pay, or, if necessary, may be realized in the same way as arrears of land revenue are recoverable under this Act.

Liability to criminal prosecution not affected.

35. Nothing in this Chapter shall affect any officer's liability to a criminal prosecution for any offence with which he may be charged.

Officer may be suspended during trial and subsequently suspended, reduced or dismissed.

Any officer subjected to such prosecution may be suspended pending the trial, and at its close may, upon a consideration of the circumstances brought to light during its course, be suspended, reduced or dismissed by any competent authority, whether he had been found guilty or not.

CHAPTER V.

OF LAND AND REVENUE.

Land.

Public roads etc., and landt which are no, the property of others, belong to Government.

36. All public roads, lanes and paths, the bridges, ditches, dikes and fences, on or beside the same, the bed of rivers, streams, *nalas,* lakes and tanks, and all canals, and water courses and all standing and flowing water, and all lands wherever situated, which are not the property of individuals, or of aggregates of individuals legally capable of holding property, and except in so far as any rights of such individuals may be established in or over the same, and except as may be otherwise provided in any law for the time being in force, are and are hereby declared to be, with all rights in or over the same, or appertaining thereto, the property of Government; and it shall be lawful for the Deputy Commissioner [2][subject to the orders of the Revenue Commissioner] to dispose of them, in such

1. Substituted for the word 'Government' by Act VI of 1906.
2. Inserted by Act VI of 1906.

manner, as may be authorised [1][by general rules sanctioned by Government,] subject always to the right of way, and all other rights of the public or individuals legally subsisting.

Encroachments upon public roads, streets, etc.

37. When it is proved on a formal enquiry before the Deputy Commissioner that any public road, street or thoroughfare, or any place of public resort or use, or the bed of any river, stream, *nala*, tank or canal, the property of Government, has been encroached upon by any person, the Deputy Commissioner may take possession of the part encroached upon, unless such part is shown to have been held for a period of not less than twelve years. It shall be lawful for the Deputy Commissioner to clear such land by the removal of any buildings or other obstruction, in the event of the person in occupation thereof, or other persons interested, after written notice of not less than one month shall have been served upon him, failing to do so himself.

Right to metals and minerals to vest in Government.

38. Unless it is otherwise expressly provided by the terms of any grant made, or of any other instrument of transfer executed by the Government for the time being, the right to all precious metals, precious stones, coal and other minerals to be extracted by any process of mining from any lands whatsoever, shall vest absolutely in the Government, and the Government shall have all the powers necessary for the proper enjoyment or disposal of such rights:

Provisos.

Provided that—

(1) Nothing in this section shall be deemed to apply to lime-stone, granite and such other ordinary minerals as the Government, by notification in the Official Gazette, may from time to time exempt from the scope of this section;

(2) If, for the purpose of exercising any of the rights referred to in this section either by the Government or by any person acquiring such rights from the Government, any land in the holding or enjoyment of others is required, such land may be acquired in accordance with [2][the Land Acquisition Act VII of 1894], and whenever, in the exercise of the rights aforesaid, any damage be

1. Inserted by Act VI of 1906.
2. Substituted for "the Land Acquisition Act X of 1870" by Act VII of 1894.

caused to any holder of land by the disturbance of the surface of such land, and such holder and the Government be unable to agree as to the amount of compensation to be paid to such holder for such damage, the same shall be determined in accordance with the procedure prescribed by [1][the Land Acquisition Act VII of 1894.]

(3) Any person claiming a right to minerals by the terms of any grant or other instrument now in existence shall, within five years after the passing of this Act, prefer his claim in writing to the Deputy Commissioner of the district in which the land in respect of which the right is claimed is situate, who shall hold a formal inquiry into the claim, record his opinion thereupon, and submit the proceedings to the Superintendent of Inam Settlement or such other officer as the Government may specially appoint in this behalf. The Superintendent of Inam Settlement or such other officer as aforesaid, shall thereupon fix a day for the hearing of the claim and give notice thereof to all parties interested therein, and, after hearing such of them as may appear, shall pass his decision thereon.

(4) Subject to the provisions contained in sections 5 to 25 inclusive of the Limitation Act, the claim shall be held to be barred by limitation if not made within five years after the passing of this Act.

(5) An appeal shall lie to the High Court from any decision passed under this section by the Superintendent of Inam Settlement or such other officer as aforesaid, provided that the appeal be presented within ninety days of the date of such decision. But the High Court shall not set aside or modify any such decision otherwise than upon the merits, for any want of form or irregularity in procedure, or without notice to the Government of the hearing of the appeal.

(6) The decision passed under this section by the Superintendent of Inam Settlement or such other

1. Substituted for "the Land Acquisition Act X of 1870" by Act VII of 1894.

officer as aforesaid, or if an appeal be preferred therefrom to the High Court, then the decision of the High Court on such appeal, shall be a final adjudication of the claim.

(7) Claim to rights to minerals shall not be cognizable by tribunals except as above provided.

Lands may be assigned for special purposes and where so assigned shall not be otherwise appropriated without the sanction of Government.

[1]**39.** Subject to the general orders of the Government, [2][it shall be lawful for Survey Officers] whilst survey operations are proceeding under Chapter VIII of this Act and at any other time for the [2][Deputy Commissioner] to set apart lands, the property of Government and not in the lawful occupation of any person or aggregate of persons in unalienated villages or unalienated portions of villages, for free pasturage for the village cattle, for forest reserves, or for other public or municipal purpose ; and lands assigned specially for any such purpose shall not be otherwise appropriated or assigned without the sanction of the [2][Deputy Commissioner,] and in the disposal of land under section 36, due regard shall be had to all such special assignments.

Regulation of use of pasturage.

40. The right of grazing on free pasturage lands shall extend only to the cattle of the village or villages to which such lands belong or have been assigned, either by custom or by an express order of the Survey Officer or the Deputy Commissioner and shall be regulated by rules to be from time to time, either generally or in any particular instance, prescribed by the Deputy Commissioner, subject to such general rules, if any, as may be prescribed by the [3][Revenue Commissioner]. The Deputy Commissioner's decision as to the said right of grazing shall be final.

Right to trees in village to which survey settlement has not been introduced.

41. (1) In villages or portions of villages to which a survey settlement has not been introduced under Bombay Act I of 1865 or under Chapter VIII of this Act the right to all trees, except such as are reserved by Government under any law relating to forests for the time being in force, shall be deemed to vest in the occupant, if any, of the land upon which they may be standing except when such trees are the property of the Government or of individuals, in which case it shall be competent for Government to transfer the right in question to the

1. As amended by Act VI of 1906.
2. Substituted for the words 'Revenue Commissioner' by Act VII of 1919.
3. Substituted for the word "Government" by Act VI of 1906.

occupant under such rules as the Government, may from time to time, frame in that behalf.

Right to trees in unalienated land.

(2) In villages or portions of villages of which the original survey settlement has been completed before the passing of this Act, the right of Government to all trees in unalienated land, except trees reserved by Government, or by any Survey Officer, whether by express order made at or about the time of such settlement, or under any rule or general order in force at the time of such settlement, or by notification made and published at or any time after such settlement, shall be deemed to have been conceded to the occupant.

(3) In the case of villages or portions of villages of which the original survey settlement shall be completed after the passing of the Act, the right of Government to all trees in unalienated land shall be deemed to be conceded to the occupant of such land, except in so far as any such rights may be reserved by Government, or by any Survey Officer on behalf of Government, either expressly at or about the time of such settlement, or generally by notification made and published at any time previous to the completion of the survey settlement of such village or portion of a village.

(4) When permission to occupy land has been, or shall hereafter be, granted after the completion of the survey settlement of the village, or portion of village, in which such land is situate, the said permission shall be deemed to include the concession of the right of Government to all trees growing on that land which may not have been, or which shall not hereafter be, expressly reserved at the time of granting such permission, or which may not have been reserved under any of the foregoing provisions of this section, at or about the time of the original survey settlement of the said village or portion of a village.

Government trees and forests.

42. The right to all trees specially reserved under the provisions of the last preceding section, and to all trees, brushwood, jungle or other natural product, wherever growing, except in so far as the same may be the property of individuals or of aggregates of individuals capable of holding property, vests in the Government ; and such trees, brushwood, jungle or other natural product

shall be preserved or disposed of in such manner as Government may, from time to time, direct.

Road-side trees.

43. All road-side trees which have been planted and reared by or under the orders of, or at the expense of, Government or at the expense of local funds, vest in Government. But in the event of such trees dying, being blown down, or being cut down by order of the Deputy Commissioner, the timber shall become the property of the holder of the land in which they were growing : and the usufruct, including the lopping of such trees, shall also vest in the said holder, provided that the trees shall not be lopped, except under the orders of the Deputy Commissioner.

If the holder of any land in which such trees are growing shall so desire, and shall make an application to the Deputy Commissioner for the purpose at any time within two years from the date on which this Act shall come into operation, the Deputy Commissioner shall deduct the strip of land covered by the said trees from his holding and remit thenceforward the proportionate amount of land revenue due upon the strip so deducted. Any strip of land so deducted shall, with the trees upon it, vest thereafter in Government.

Recovery of value of trees, etc., unauthorizedly appropriated.

44. Any person who shall unauthorizedly fell and appropriate any trees or any portion thereof, or remove any other natural product which is the property of Government, shall be liable to Government for the value thereof, which shall be recoverable from him as an arrear of land revenue, and shall also be liable to a fine not exceeding one hundred rupees, provided that the Deputy Commissioner may, instead of imposing a fine as aforesaid, institute criminal proceedings against him in respect of his said appropriation of Government property.

The decision of the Deputy Commissioner as to the value of such tree or portion thereof or other natural product shall be final.

Land Revenue.

All land liable to pay revenue unless specially exempted.

45. All land, whether applied to agricultural or other purposes, and wherever situate, is liable to the payment of land revenue to Government according to the rules hereinafter enacted, except such as may be wholly

exempted under the provisions of any special contract with the Government or any law for the time being in force.

Liability of alluvial lands to land revenue.

46. All alluvial lands, newly formed islands or abandoned river-beds, which vest under any law for the time being in force, in any holder of alienated land, shall be subject, in respect of liability to the payment of land revenue, to the same privileges, conditions or restrictions as are applicable to the orginal holding in virtue of which such lands, islands, or river-beds, so vest in the said holder; but no revenue shall be leviable in respect of any such lands, islands or river-beds until or unless the area of the same exceeds half an acre and also exceeds one-tenth of the area of the said original holding.

Remission of assessment in cases of diluvian.

47. Every holder of land paying revenue in respect thereof shall be entitled, subject to such rules as may be from time to time made in this behalf by the Government, to a decrease of assessment if any portion thereof, not being less than half an acre in extent, nor less than one-tenth of the holding, is lost by diluvian.

Land Revenue upon what descriptions of land chargeable.

48. The land revenue leviable under the provisions of this Act shall be chargeable—

(*a*) upon land appropriated for purposes of agriculture;

(*b*) upon land from which any other profit or advantage than that ordinarily acquired by agriculture is derived;

(*c*) upon land appropriated for building sites.

Assessment subject to variation if purpose for which land is held is changed.

And the assessment fixed under the provisions of this Act upon any land appropriated for any one of the above purposes shall be liable to be altered and fixed at a different rate when such land is appropriated for any other purpose, notwithstanding that the term, if any, for which such assessment was fixed may not have expired.

Land held rent-free for one purpose liable to assessment if used for another purpose.

When any land which is situated in an unalienated village, or which, being situated in an alienated village, is excluded from the assets thereof, has been allowed by Government to be held free of assessment or on a reduced assessment on conditions of its being appropriated to one purpose, it shall become liable to be charged with full assessment, if at any time it ceases to be appropriated for such purpose.

Appropriation of land to certain purposes may be prohibited.

It shall also be lawful for the Deputy Commissioner or for a survey officer, subject to rules or orders made in this behalf under section 233, to prohibit the appropriation of any unalienated land liable to the payment of land revenue for certain purposes, and summarily evict any holder who may appropriate, or attempt to appropriate, the same to such prohibited purposes.

Commuted assessment of land indirectly taxed to the State.

49. (1) When it has been customary to levy any special or extra cess, fine or tax, however designated, from any holder of land, which, though nominally wholly or partially exempt from the payment of land revenue, has, by the exaction of such cess, fine or tax, been indirectly taxed to the State;

And of land liable to occasional assessment.

or, when any land ordinarily, or under certain circumstances, wholly or partially exempt from assessment, is subject occasionally, or under particular circumstances, to the payment of assessment, or of any cess, or tax, however designated;

the said assessment, cess, fine, or tax may be commuted into an annual assessment on the land to be paid under all circumstances; but such commuted assessment shall not exceed such amount as the [1] [Revenue Commissioner] shall deem to be a fair equivalent of the assessment, cess, fine or tax for which it is substituted, and shall not be in excess of the assessment to which the land would be ordinarily subject if no right to exemption existed in respect thereof.

Superior holder may recover commuted assessment from inferior holder.

(2) Whenever any such cess, fine or tax hitherto payable by an inferior holder shall be made leviable from the superior holder, it shall be lawful for such superior holder to recover from such inferior holder the amount of the commuted assessment fixed in lieu of such cess, fine or tax.

Excess of assessment may be levied on land inadequately assessed held with it.

(3) When it has been customary to levy a larger revenue upon any portion of land than such portion would ordinarily be liable to, in consideration of other land being held with it, which is wholly or partially exempt from payment of revenue, the excess of revenue payable on the said portion of land may be charged upon the land hitherto held, wholly or partially exempt.

1. Substituted for the word 'Government' by Act VI of 1906.

(Chapter V—Of Land and Revenue).

Assessment by whom to be fixed.

50. On all lands not wholly exempt from payment of land revenue, and not within the local operation of an order made under section 106, the assessment of the amount to be paid as land revenue shall be fixed at the discretion of the Deputy Commissioner, subject to rules or orders made in this behalf under section 233, and the amounts due according to such assessment shall be levied on all such lands:

Proviso.

Provided that in the case of lands partially exempt from land revenue, or the liability of which to payment of land revenue is subject to special conditions or restrictions, respect shall be had, in the fixing of the asessment and the levy of the revenue, to all rights legally subsisting, according to the nature of the said rights.

Register of alienated lands.

51. A register shall be kept by the Deputy Commissioner in such form as may, from time to time, be prescribed by the Government, of all lands the alienation of which has been established or recognised under the provisions of any law for the time being in force; and when it shall be shown to the satisfaction of the Deputy Commissioner that a sannad granted in relation to any such alienated lands has been permanently lost or destroyed, he may, subject to the rules and the payment of the fees prescribed by the Government under section 232, grant to any person whom he may deem entitled to the same, a certified extract from the said register which shall be endorsed by the Deputy Commissioner to the effect that it has been issued in lieu of the sannad said to have been lost or destroyed, and shall be deemed to be as valid a proof of title as the said sannad.

Settlement of assessment to be made with the holder directly from Government.

52. The settlement of the assessment of each portion of land, or survey number, to the land revenue, shall be made with the person who, under section 142, is primarily responsible to Government for the same.

Or, if he be absent and have left no agent with the next holder.

If the said person be absent and have left no known authorized agent in the District, so that the settlement of the assessment cannot be concluded with him, such settlement may be made with the person holding under him, or in occupation of the land.

Rates for the use of water

53. The Government may authorize the Deputy Commissioner or the officer in charge of a survey, or such

other officer as it appoints to fix such rates as it may, from time to time, deem fit to sanction for the use, by land-holders and other persons, of water the right to which vests in Government, or which has been made available in consequence of the construction, improvement or repair of any irrigational or other work by Government [1][or by a private person acting under the written authority of Government.] Such rates shall be liable to revision at such periods as Government shall from time to time determine, and shall be recoverable as land revenue.

Land revenue a paramount charge on the land.

54. [2][Arrears of land revenue due on account of land by any land-holder shall be a paramount charge on the holding and every part thereof, failure in payment of which shall make the occupancy or alienated holding, together with all rights of the occupant or holder over all trees, crops, buildings and things attached to the land, or permanently fastened to anything attached to the land, liable to forfeiture, whereupon the Deputy Commissioner may levy all sums in arrear by sale of the occupancy or alienated holding, or may otherwise dispose of such occupancy or alienated holding under rules or orders made in this behalf under section 233, and such occupancy or alienated holding when disposed of, whether by sale as aforesaid, or by transfer to another person or otherwise howsoever, except by restoration to the defaulter, shall, unless the Deputy Commissioner otherwise directs, be deemed to be freed from all tenures, rights, incumbrances and equities theretofore created by the occupant or holder or any of his predecessors in title or in anywise subsisting as against such occupant or holder,] [3][but so as not to affect the rights of kadim tenants or permanent tenants in alienated holdings.]

Forfeited holding may be taken possession of and otherwise disposed of.

55. It shall be lawful for the Deputy Commissioner, in the event of the forfeiture of a holding through any default in payment or other failure occasioning such forfeiture under the last preceding section or any law for the time being in force, to take immediate possession of the land embraced within such holding, and to dispose of the same by placing it in the possession of the purchaser or

1. Inserted by Act 1 of 1891.
2. Substituted by Act VIII of 1916.
3. Added by Act XVII of 1928.

other person entitled to hold it according to the provisions of this Act or any other law for the time being in force.

Receipts to be granted by revenue officers for payments of land revenue.

56. Every revenue officer, receiving payment of land revenue shall give a written receipt for the same.

And by superior holders for payments of rent or revenue.

And every superior holder of an alienated village or of an alienated share of a village, or a duly authorized agent of such superior holder, shall give a written receipt for every payment of rent or land revenue made to him by an inferior holder.

Penalty for failure to grant receipts

57. Any person convicted of a breach of the provisions of the last preceding section, after summary enquiry before the Deputy Commissioner, shall be liable to a fine not exceeding three times the amount received for which receipt was not duly granted.

CHAPTER VI.

OF THE OCCUPATION OF UNALIENATED LAND AND THE RIGHTS OF OCCUPANTS.

Occupation.

Written permission of Amildar required previous to taking up unoccupied land.

58. Any person desirous of taking up unoccupied land which has not been alienated must, previously to entering upon occupation, obtain the permission in writing of the Amildar or Deputy Amildar, or as may be provided under rules made in this behalf under section 233.

Penalties for unauthorised occupation of land.

59. Any person who shall unauthorizedly occupy any land set apart for any special purpose, or any unoccupied land which has not been alienated, shall,

if the land which he unauthorizedly occupies forms part of an assessed survey number, pay the assessment of the entire number for the whole period of his occupation; and

if the land so occupied by him has not been assessed, such amount of assessment as would be leviable for the

said period in the same village on the same extent of similar land appropriated to the same purpose;

and shall also be liable, at the discretion of the Deputy Commissioner, to a fine not exceeding five rupees, or a sum equal to ten times the amount of assessment payable by him for one year, if such sum be in excess of five rupees, if he have taken up the land for purposes of cultivation, and not exceeding such limits as may be fixed in rules or orders made in this behalf under section 233 if he have appropriated it to any non-agricultural purpose.

The Deputy Commissioner's decision as to the amount of assessment payable for the land unauthorizedly occupied shall be final, and in determining the amount of assessment payable for the land unauthorizedly occupied, occupation for an incomplete portion of a year shall be counted as for a whole year.

The person unauthorizedly occupying any such land may be summarily evicted by the Deputy Commissioner, and any crops he may have raised on the land shall be liable to forfeiture, and any building or other construction he may have erected thereon shall also, if not removed by him after such written notice as the Deputy Commissioner may deem reasonable, be liable to forfeiture.

Forfeiture under this section shall be adjudged by the Deputy Commissioner, and any property so forfeited shall be disposed of as the Deputy Commissioner may direct.

[1][On the application of the holder of an alienated village or on complaint by any aggrieved person, the Deputy Commissioner may exercise in respect of any lands situated in the alienated village the powers vested in him under this section.]

Occupancy rights to be paid for and to be liable to certain conditions.

60. It shall be competent to the Deputy Commissioner, subject to such orders as may from time to time be made by the Government, to require the payment of a certain price for the occupancy, or to sell that right by auction, and to annex such conditions to the occupancy as may seem fit, before permission to occupy is granted under section 58.

Price to include price of trees.

The price of an occupancy shall, unless otherwise directed by the terms of the sale, include the price of the

1. Added by Act XVII of 1928.

(Chapter VI—Of the Occupation of Unalienated Land and the Rights of Occupants.)

Government right to all trees not reserved under the provisions of section 41, and shall be recoverable as an arrear of land revenue.

Occupancy of alluvial land which vests in Government.

61. When it appears to the Deputy Commissioner that the occupancy of any alluvial land which vests, under any law for the time being in force, in Government, may, with due regard to the interests of the public revenue, be disposed of in perpetuity, or otherwise as the Government may direct by rules or orders made in this behalf under section 233, he shall offer the prior right of occupancy thereof to the occupant, if any, of the bank or shore on which such alluvial land has formed.

The price of an occupancy so offered shall not exceed three times the annual assessment of the land. of which the occupancy is offered.

If the said occupant shall refuse such occupancy, the Deputy Commissioner may dispose of the same under the last preceding section without any restrictions as to the price thereof.

Temporary right to alluvial land of small extent.

62. When alluvial land forms on any bank or shore, the occupant, if any, of such bank or shore shall be entitled to the temporary use and occupation thereof, unless or until the area of the same exceeds half an acre, and also exceeds one-tenth of the area of his holding. When the area of the alluvial land exceeds the said extent, it shall be at the disposal of the Deputy Commissioner, subject to the provisions of the last preceding section.

The word "holding," in this section and in section 47 shall be deemed to mean a survey number, or any division of land on which a distinct or aggregate assessment has been fixed.

Occupant's Rights.

Uses to which occupant of land for purposes of agriculture may put his land.

63. (1) An occupant of land appropriated for purposes of agriculture is entitled, by himself, his servants, tenants, agents, or other legal representatives, to erect farm-buildings and dwelling houses for agriculturists and their labourers, construct wells or tanks, or make any other improvements thereon for the better cultivation of the land or its more convenient occupation for the purposes aforesaid.

(Chapter VI—Of the Occupation of Unalienated Land and the Rights of Occupants).

Procedure if the occupant wishes to apply his land to any other purpose.

(2) But if any occupant wishes to appropriate his holding or any part thereof to any other purpose, the Deputy Commissioner's permission shall, in the first place, be applied for by the registered occupant. The Deputy Commissioner, on receipt of such application, shall at once furnish the applicant with a written acknowledgment of its receipt, and, after inquiry, either grant or refuse the same, but if the applicant receives no answer within three months from the date of the said acknowledgment, the Deputy Commissioner's permission may be deemed to have been granted. Unless the Deputy Commissioner shall, in particular instances, otherwise direct, no such application shall be recognized, except it be made by the registered occupant.

Fine to be levied for such appropriation in addition to special assessment.

(3) When any such land is thus appropriated to any purpose unconnected with agriculture, it shall be lawful for the Deputy Commissioner, subject to general orders of Government, to require the payment of a fine in addition to any new assessment which may be leviable under the provisions of section 48.

Penalty for so appropriating land without permission.

64. If any such land be so appropriated without the permission of the Deputy Commissioner being first obtained or before the expiry of three months from the date of the said acknowledgment, the occupant and any tenant or other person holding under or through him shall be liable to be summarily evicted by the Deputy Commissioner from the land so appropriated, or from the entire field or survey number of which it may form a part, and the registered occupant shall also be liable to pay, in addition to the new assessment which may be leviable under the provisions of section 48, for the period during which the said land has been so appropriated, such fine as the Deputy Commissioner may, subject to the general orders of the Government, direct.

Co-occupant or tenant responsible to registered occupant in damages.

Any co-occupant or any tenant of any occupant, or any other person holding under or through an occupant, who shall, without any registered occupant's consent, appropriate any such land to any such purpose and thereby render the said registered occupant liable to the penalties aforesaid, shall be responsible to the said registered occupant in damages;

(Chapter VI—Of the Occupation of Unalienated Land and the Rights of Occupants).

Provided that the Deputy Commissioner may, instead of fining the registered occupant as aforesaid, fine any co-occupant or any tenant of any occupant, or any other person holding under or through an occupant, who may have, without the registered occupant's consent, appropriated any such land to any such purpose as aforesaid. Proviso.

[1][**64A.** The Deputy Commissioner may also exercise the powers under section 63 and section 64 in respect of land in an alienated village on the application of the holder thereof and in the case of villages to which section 99 (*d*) of the said Code does not apply, also on the application of the tenant of the land.] Deputy Commissioner's powers under sections 63 and 64 in alienated villages.

65. Nothing in the last two preceding sections shall prevent the granting of the permission aforesaid in special cases on such terms as may be agreed on between Government and the registered occupant. Permission may be granted on terms.

66. An occupant is entitled to the use and occupation of his land for the period, if any, to which the occupancy is limited, or, if the period is unlimited, in perpetuity, conditionally on the payment of the amounts due on account of the land revenue for the same according to the provisions of this Act, or of any rules made under this Act, or of any other law for the time being in force, and on the fulfilment of any other terms lawfully annexed to his occupancy. Occupants' rights are conditional.

[1][**66A.** (1) It shall be lawful for the Deputy Commissioner at any time to grant permission to any person to occupy unalienated unoccupied land for such purposes, for such period and on such conditions as he may, subject to rules made by Government in this behalf, prescribe, and in any such case the occupancy shall, whether a survey settlement has been extended to the land or not, be held only for the period and subject to the conditions so prescribed. Deputy Commissioner's power to grant permission to occupy land temporarily.

(2) Whenever any person occupying or in possession of any land granted under this section fails to comply with any of the conditions so prescribed, such person may be evicted by the Deputy Commissioner, after a summary inquiry.

1. Added by Act XVII of 1928.

(Chapter VI—Of the Occupation of Unalienated Land and the Rights of Occupants).

Transfer of occupancy without Deputy Commissioner's sanction.

66B. In any case where an occupancy is not transferable without the previous sanction of the Deputy Commissioner, and such sanction has not been granted to a transfer which has been made or which is ordered by a Civil Court or on which the Court's decree or order is founded.

(*a*) such occupancy shall not be liable to the process of any Court, and such transfer shall be null and void, and

(*b*) the Court, on receipt of a certificate under the hand and seal of the Deputy Commissioner to the effect that any such occupancy is not transferable without his previous sanction and that such sanction has not been granted, shall remove any attachment or other process placed on, or set aside any sale of, or affecting, such occupancy.]

Decree or order of Competent Court to be given effect to.

67. If, by a decree or order of a competent Court, it shall be adjudged that the occupant of any land is an inferior holder under another person, or that the occupancy is vested in another person, or if in the execution of such a decree or order the interests of the occupant in the land have been transferred by sale or otherwise to another person, such other person shall, on producing a certified copy of the decree or order, or the Court's certificate of the sale, or other transfer, be deemed to be the occupant and be dealt with accordingly, and on written application being made to the Deputy Commissioner for the purpose, such change shall be made in the entry of the registered occupant's name as the circumstances require.

Name of heir to be registered when registered occupant dies.

68. On the death of a registered occupant, the Deputy Commissioner shall cause the name of his eldest son, or other person appearing to be his heir or the principal of his heirs, to be registered in his stead, and the said heir shall thereafter be deemed the registered occupant, and, subject to the provisions of the last preceding section, shall be dealt with accordingly.

When entry to be amended.

69. If at any time any person shall, by production of a certificate of heirship or of a decree or order of a competent Court, satisfy the Deputy Commissioner that he is entitled to be the registered occupant in preference to the person whose name the Deputy Commissioner has

ordered to be registered under section 68, the Deputy Commissioner shall cause the entry in the Government records to be amended accordingly.

Right of occupancy to be transferable and heritable.

70. The right of occupancy shall be deemed an heritable and transferable property subject to the provisions contained in section 54, or otherwise prescribed by law, and shall immediately pass to the person whose agreement to become an occupant shall have been accepted by the Deputy Commissioner.

Relinquishment of Occupancy.

Occupant may relinquish his occupancy.

71. An occupant may, by giving written notice to the Amildar or Deputy Amildar, relinquish his occupancy, either absolutely or in favour of a specified person: provided that such relinquishment apply to the entire occupancy or to whole survey numbers, or recognized shares of survey numbers.

An occupancy absolutely relinquished shall be at the disposal of Government, and shall be disposed of by the Deputy Commissioner in accordance with such rules as may, from time to time, be framed by Government in that behalf.

An absolute relinquishment shall, unless otherwise directed by any special or general rules framed by Government, be deemed to have effect from the close of the current revenue year, and notice thereof must be given before the 31st March in such year, or before such other date as may be, from time to time, prescribed in this behalf for each district by the Government. A relinquishment in favour of a specified person may be made at any time.

When there are more occupants than one, the notice of relinquishment must be given by the registered occupant; and the person, if any, in whose favour an occupancy is relinquished, or, if such occupancy is relinquished in favour of more persons than one, the principal of such persons, must enter into a written agreement to become the registered occupant, and his name shall thereupon be substituted in the records for that of the previous registered occupant.

Relinquishment of lands paying a lump assessment.

72. When a lump assessment is fixed upon several fields or survey numbers in the aggregate, it shall not be lawful for the occupant to relinquish as aforesaid any one

or more of such fields or survey numbers except with the previous consent of the Deputy Commissioner. It shall be competent to the Deputy Commissioner to grant or refuse his consent; if he grants it, the occupancy shall be divided, and the Deputy Commissioner shall determine the proportional amount of land revenue to be paid by each portion of it, and the original occupant and the person, if any, in whose favour he relinquishes a portion of his occupancy, shall be held liable for the revenue severally assessed on their portions.

Relinquishment of alienated land.

73. The provisions of the last two sections shall apply, as far as may be, to the holders of alienated land:

Proviso.

Provided—

Relinquishment of land described in section 49.

(*a*) that it shall not be lawful to relinquish as aforesaid any portion of any land held wholly or partially exempt under the circumstances described in the first paragraph of section 49 until the commuted assessment payable in respect of such portion of land has been determined under the provisions of the said section; and

(*b*) that if any person relinquishes land on which, under the circumstances described in section 49, a larger revenue is levied than would ordinarily be leviable on such land, he shall be deemed to have relinquished also the land held with it which is wholly or partially exempt from payment of revenue.

Right of way to relinquished land.

74. If any person relinquishes land, the way to which lies through other land which he retains, the right of way through the land so retained shall continue to the future holder of the land relinquished.

Sections 72 and 73 not to operate in certain cases.

75. Nothing in sections 72 and 73 shall affect—

(*a*) the responsibility of any share in a village for the land revenue of which the shares are all, according to law or the custom of the village, jointly responsible, or

(*b*) the validity of the terms or conditions of any lease or other express instrument under which land is, or may hereafter be, held from Government.

(Chapter VI—Of the Occupation of Unalienated Land and the Rights of Occupants).

76. The registered occupant or the holder of alienated land shall continue liable for the land revenue due on the occupancy or alienated holding and for all other lawful demands of Government in respect of the same, until such time as the occupancy or alienated holding is relinquished or transferred, under any of the provisions of this Act, to the name of any other person ; and the Deputy Commissioner shall not be bound in any case to recognize any person to whom any interest in any portion of an occupancy or alienated holding has been assigned, unless the transfer has been recorded in the revenue records in accordance with the foregoing provisions.

Occupant or holder to continue liable for all demands until the occupancy or holding is duly relinquished or transferred.

Remedies against Forfeiture of Occupancies and Alienated Holdings.

77. In order to prevent the forfeiture of an occupancy or alienated holding under the provisions of section 54 or of any other law for the time being in force, through non-payment, by the registered occupant or by the holder of the alienated holding, of the land revenue due on account of the occupancy or alienated holding, it shall be lawful for any co-occupant, co-holder, co-sharer, tenant, mortgagee or other person interested in the continuance of the occupancy or alienated holding, to pay, on behalf of such registered occupant or holder, all sums due on account of land revenue, and for the Deputy Commissioner to receive the same.

To prevent forfeiture of occupancy, certain persons other than the registered occupant may pay the land revenue.

And in any such case, the Deputy Commissioner may give to the person who has paid the land revenue as aforesaid such aid for the recovery of the proportional amounts which he may consider to be properly payable by other persons in occupation or enjoyment of parts of a field or survey number or alienated holding as he might legally have given had the persons so paying been the registered occupants or holders of alienated holdings :

Provided that nothing authorized or done under the provisions of this section shall affect the rights of the parties interested as the same may be established in any suit between such parties in a Court of competent jurisdiction.

Proviso.

(Chapter VII—Of Superior and Inferior Holders).

Deputy Commissioner may in certain cases make co-occupant or other person registered occupant instead of selling occupancy for realization of land revenue.

78. If it shall appear to the Deputy Commissioner that a registered occupant or holder of an alienated holding has failed to pay land revenue, and has thus incurred forfeiture with a view to injure or defraud his co-occupants, co-holders, co-sharers or other persons interested in the continuance of the occupancy or alienated holding, or that a sale of the occupancy or alienated holding will operate unfairly to the prejudice of such co-occupants, co-holders, co-sharers or other persons, it shall be lawful for him, instead of selling the occupancy or alienated holding, to forfeit only the interest in the same of the said registered occupant or holder of alienated holding, as the case may be, and to substitute the name of any such co-occupant co-holder, co-sharer, or other person as registered occupant or holder thereof in the revenue records, on his payment of all sums due on account of land revenue for the occupancy or alienated holding; and such person so becoming the registered occupant or holder shall have the rights and remedies with respect to all other persons in occupation or enjoyment provided for by section 97.

CHAPTER VII.

Of Superior and Inferior Holders.

Tenancy.

Amount of rent payable by tenant.

79. A person placed, as tenant, in possession of land by another, or, in that capacity, holding, taking or retaining possession of land permissively from or by sufferance of another, shall be regarded as holding the same at the rent, or for the services, agreed upon between them; or, in the absence of satisfactory evidence of such agreement of the rent payable or services renderable by the usage of the locality, or, if there be no such agreement or usage, shall be presumed to hold at such rent as, having regard to all the circumstances of the case, shall be just and reasonable.

Duration of tenancy.

And where, by reason of the antiquity of a tenancy, no satisfactory evidence of its commencement is forthcoming, and there is not any such evidence of the period of its intended duration, if any, agreed upon between the landlord and tenant, or those under whom they respectively claim title, or any usage of the locality as to duration

of such tenancy, it shall, as against the immediate landlord of the tenant, be presumed to be co-extensive with the duration of the tenure of such landlord and of those who derive title under him.

[1][*Explanation.*—In the following cases, such a presumption shall be raised—

(1) where the tenant has been recognised as a permanent tenant by the landlord or by a Court in a suit to which the landlord was a party;

(2) where a tenant holds land in respect of which any alienation has been recognised by the landlord or by a Court in a suit to which the landlord was a party or where the alienation has not been contested by the landlord for twelve years from the date of the service of notice of alienation to the landlord;

(3) where for the better cultivation of the holding the tenant has made permanent improvements thereon to the knowledge of the landlord and has been in undisturbed possession of the holding continuously for twelve years thereafter: provided that the landlord has made no contribution for such improvements nor recovered enhanced rent from the tenant nor given any notice in writing to the tenant that such improvements would not create any new rights;

(4) where, in the absence of a contract regarding the nature and duration of the tenancy, the tenant has established that he has been in continuous possession on payment of fixed rent for a period of [twelve][2] years or more.]

Presumption as to tenure.

And where there is no satisfactory evidence of the capacity in which a person in possession of land in respect of which he renders service or pays rent to the landlord, receives, holds or retains possession of the same, it shall be presumed that he is in possession as tenant.

Saving clause.

Nothing contained in this section shall affect the right of the landlord (if he have the same either by virtue of agreement, usage or otherwise) to enhance the rent payable, or services renderable, by the tenant, or to evict the

1. Added by Act XVII of 1928.
2. The word "twelve" was substituted for the word "twenty" by Act XVII of 1939.

tenant for non-payment of the rent, or non-rendition of the services, either respectively originally fixed or duly enhanced as aforesaid.

Annual tenancy terminates on 31st March.

80. An annual tenancy shall, in the absence of proof to the contrary, be presumed to run from the end of one cultivating season to the end of the next. The cultivating season may be presumed to end on the 31st March.

Three months' notice to be given by landlord and tenant for termination of tenancy.

An annual tenancy shall, in the absence of any special agreement to the contrary, require for its termination a notice given in writing by the landlord to the tenant or by the tenant to the landlord at least three months before the end of the year of tenancy at the end of which it is intimated that the tenancy is to cease. Such notice may be in the form of Schedule E or to the like effect.

Landlord to furnish tenant with written lease.

81. Every tenant is entitled to receive from his landlord a written lease containing the following particulars:—

(*a*) the quantity and description of land held by him, and where the fields have been numbered in the records of a Government survey or other public record, the number of each field;

(*b*) the amount of annual rent, if any, payable for such land;

(*c*) the instalments in which, and the dates on which, such rent is to be paid;

(*d*) any special conditions of the lease; and

(*e*) if the rent is payable in kind, the quantity or the share of produce to be delivered; and the time, manner and place of delivery.

Landlord entitled to written engagement from tenant.

82. Every landlord who grants a lease is entitled to receive a written reciprocal engagement from the tenant, executed by the tenant and in conformity with the terms of the lease. The tender to any tenant of a lease such as he is entitled to receive shall entitle the landlord to receive a reciprocal engagement from such tenant.

Leases or agreements fixing rent in perpetuity.

83. (1) Notwithstanding anything contained in section 79, where, before the passing of this Act, any lease has been granted or any agreement entered into fixing in perpetuity the rent of unalienated land, such lease or agreement shall, when the Government revenue payable in respect of such land is enhanced, be voidable at the option of the landlord, unless the tenant agrees to pay such rent as the Deputy Commissioner or other person

duly empowered in this behalf may, on the application of the landlord, determine to be fair and reasonable.

(2) When the Government revenue payable in respect of such land is reduced, such rent as the Deputy Commissioner or other person duly empowered in this behalf may, on the application of the tenant, determine to be fair and reasonable, shall be accepted by the landlord.

(3) The determination of the amount of rent under this section shall be such that the net profits accruing to the landlord therefrom are the same as before the enhancement or reduction of the Government revenue.

Rights of Tenants in Alienated Land.

"*Kadim* tenant" defined.

84. A tenant holding alienated land, whether situated in an alienated village or not, and paying to the superior holder of such land, by way of land revenue, a rent in money or in kind assessed at rates of land revenue assessment obtaining at the time when such land was alienated by Government, or at rates subsequently fixed in accordance with the established rates of land revenue assessment for the village, or at rates fixed by competent revenue authority or by a survey settlement, shall have a right to continue to hold such land at the rent hitherto paid for it, or, when such rent is altered in accordance with this Act, at the rent so altered.

Such a tenant shall be called a "*kadim* tenant."

Kadim tenant to have all rights conferred upon an occupant of unalienated land.

The payment of rent by the person or persons from whom a *kadim* tenant derives his title shall be the payment of rent by such tenant within the meaning of this section.

A *kadim* tenant shall have all rights which are conferred by this Act upon an occupant of unalienated land.

Superior holder may arrange his own terms of rent for alienated waste land.

85. In the case of alienated lands which are either immemorial waste lands or lands left unoccupied through voluntary relinquishment or otherwise, it shall be lawful for the superior holder, by means of a written agreement to arrange his own terms of rent with the applicants for such lands:

Provided that nothing in this section shall affect any special rights which, by law or usage having the force of law, are held by any individual or class of individuals in such waste or unoccupied lands.

(*Chapter VII—Of Superior and Inferior Holders*).

Extent to which rent payable by a *Kadim* tenant may be enhanced.

86. The rent payable by a *kadim* tenant shall not be liable to enhancement except—

(*a*) to the extent of the proper full assessment as fixed and recorded at a survey under sections [1][111 and 120] or under a revision of survey under section 115;

(*b*) to the extent necessary for re-imbursing the superior holder for any cesses assessable on lands which Government may newly impose upon him;

(*c*) to the extent of the additional value imparted to the holding by any work of irrigation or other improvement executed at the expense of the superior holder, or to the extent of any additional tax which he has been required to pay to Government by reason of the additional value imparted to the holding, whether by the use of Government water, or by any work of irrigation or other improvement executed at the expense of Government :

Proviso.

Provided that the enhancement of rent due to additional value imparted to a holding under this section shall be fixed in accordance with the established local usage of the village, or, where there is no such local usage, in accordance with rates of assessment prevailing in neighbouring villages as regards lands, alienated or unalienated, of similar quality with similar advantages; and

(*d*) to the extent of the increased area of the holding due to alluvion, but subject to the conditions specified in sections 46 and 62.

Grounds for abatement of rent payable by a *kadim* tenant.

87. The rent payable by a *kadim* tenant is liable to abatement—

(1) on the ground that the area of the land held by him has been diminished by diluvion or otherwise, by any cause beyond his control;

(2) to the extent of any reduction of assessment at a survey or revision of survey under sections [2][111, 115 and 120;]

(3) when there has been an enhancement of rent on any of the grounds specified in clauses (*b*) and (*c*)

1. Substituted for the word and figures "111, 120 and 236" by Act XVII of 1939.
2. Substituted for the word and figures "111, 115, 120 and 236" by Act XVII of 1939.

of section 86, to the extent to which such grounds have ceased to exist, as well as to the extent to which the holding has deteriorated in value, by reason of the superior holder's neglect to repair or maintain irrigation works and the consequent diminution of the supply of water for irrigation purposes.

Provision for remission of rent or land revenue payable by a *kadim* tenant in an alienated village.

[1][**87 A.** When owing to inadequate rainfall in any tract, the Government orders remission of assessment in respect of lands in the tract, the payment of the rent or land revenue by a *kadim* tenant to the superior holder in respect of a land in any alienated village comprised in such tract shall be remitted to an amount prescribed by rules by the Government, and the loss of rent or land revenue incurred by the said superior holder shall be divided between the Government and the said superior holder in the proportion of the land revenue payable by the said superior holder to the Government and the total assessment of the village less the land revenue payable by the said superior holder to the Government.]

Suit for enhancement or abatement of rent to be made to Deputy Commissioner.

88. Any person entitled to have rent enhanced or abated upon any of the grounds specified in sections 83, 86 and 87 may bring a suit before the Deputy Commissioner within whose district the land on account of which such rent is payable is situated, and such Deputy Commissioner shall decide the suit after holding a formal enquiry.

Nothing in sections 84 to 87 to bar the enhancement or abatement of rent by written agreement of landlord and tenant.

89. Notwithstanding anything contained in sections 84 to 87 (both inclusive), an enhancement or abatement of rent payable by a *kadim* tenant may be effected by agreement in writing between tenant and landlord duly registered in accordance with the provisions of any law for the time being in force relating to the registration of assurances, and Civil Courts may take cognizance of suits based upon such agreement.

Operation of decision for enhancement or abatement of rent from what date to commence.

90. Every decision for enhancement or abatement of rent passed by the Deputy Commissioner under section 88 shall, except when such decision otherwise expressly directs, take effect from the commencement of the revenue year next following the date of the filing of the suit.

1. Added by Act XVII of 1939.

(Chapter VII—Of Superior and Inferior Holders).

Terms of *kadim* tenant's leases.

91. *Kadim* tenants are entitled to receive leases at the rate hitherto paid by them or determined in accordance with the provisions of section 88.

Terms of leases for other tenants.

All other tenants are entitled to leases on such terms as may be agreed upon between them and their landlords.

On refusal of superior holder, tenant to apply to Deputy Commissioner for lease.

92. When any superior holder of alienated land shall, for three months after demand, have refused to grant such lease as his tenant was entitled to receive, it shall be lawful for the latter to proceed by filing a suit before the Deputy Commissioner, who shall, after a formal enquiry decide the terms of the lease to which the tenant is entitled, and direct the superior holder to grant him such lease, and shall further award to the tenant such costs and damages as may be shown to have been incurred by him.

On refusal of tenant to accept lease or to execute reciprocal engagement, superior holder to apply to Deputy Commissioner.

93. When any tenant holding alienated land shall, for one month after demand, have refused to accept such a lease as the superior holder of such land was entitled to grant, or to execute a reciprocal engagement under section 82, it shall be lawful for the superior holder to proceed by a suit before the Deputy Commissioner to enforce the acceptance of such lease. The Deputy Commissioner shall thereupon hold a formal enquiry to determine whether the lease offered is a proper one.

If he shall be of opinion that the lease is a proper one, he shall pass a decision directing the tenant to accept the lease and to execute a reciprocal engagement in accordance with it. If the Deputy Commissioner shall be of opinion that the lease offered is not a proper one, he shall decide what lease ought to be offered and shall pass a decision directing the tenant to accept such lease and to execute a reciprocal engagement in accordance therewith.

If, within six months after the date of the Deputy Commissioner's decision, the tenant shall not have accepted the lease, as approved or amended by the Deputy Commissioner in the manner aforesaid, and shall not have executed a reciprocal engagement in accordance with the terms of such lease, the Deputy Commissioner, on the application of the superior holder and on proof of such default on the part of the tenant, shall pass an order for ejecting the tenant.

(Chapter VII—Of Superior and Inferior Holders).

Determination of disputes in suits under sections 92 and 93.

94. The determination of disputes regarding the amount or rates of rent in suits under sections 92 and 93 shall be in accordance with the rules contained in sections 86 and 87.

Procedure on refusal of superior holder to grant lease as directed.

95. (1) When the superior holder required by a decision under section 92 to grant a lease refuses or delays to grant the same, the Deputy Commissioner may grant a lease under his own hand and seal in conformity with the terms of the decision, and such lease shall be of the same force and effect as if granted by such superior holder.

Deputy Commissioner's decision to be evidence of amount of rent claimable from tenant.

(2) When the tenant required by a decision under section 93 to execute a reciprocal engagement has refused or failed to execute the same, the decision shall be evidence of the amount of rent claimable from such tenant, and shall have the same force and effect as a reciprocal engagement executed by him.

Procedure in suits under sections 88, 92 and 93.

96. (1) In suits under sections 88, 92 and 93, the procedure prescribed by Chapters V, VII, VIII, XXXVII and XLVII of the Code of Civil Procedure, as extended to the [1][whole of the State of Mysore except Bellary District] by Act II of 1884, shall be followed in so far as the same may be applicable to them.

Appeals in such suits to lie to High Court.

(2) An appeal shall lie to the High Court from all decisions passed by a Deputy Commissioner under sections 88, 92 and 93, and from all orders passed in execution of any such decision: provided that the appeal be presented to the High Court within ninety days of the Deputy Commissioner's decision or order. But no such decision or order shall be set aside otherwise than upon the merits, for any want of form or irregularity in procedure.

Land Revenue payable to a superior holder by an inferior holder to be a first charge on the holding.

[2][**96A.** Any rent or land revenue payable by an inferior holder to a superior holder together with interest at rates fixed by any rules framed by Government, shall be a first charge on the holding or any part thereof, provided that nothing in this section shall affect any right of the Government or any right of encumbrance created by the inferior holder with the consent of the superior holder

1. See the Mysore Adaptation of Laws Order, 1953.
2. Added by Act V of 1912.

in writing registered on or before the date of this Act coming into force.]

Recovery of Superior Holders' Dues.

Superior holders entitled to assistance in recovering rent.

97. Superior holders (other than occupants of unalienated lands in villages, the settlement of which has not been completed under Bombay Act I of 1865 or under Chapter VIII of this Act) shall be entitled to apply to the Deputy Commissioner in writing for assistance, by the use of precautionary and other measures, for the recovery of rent or land revenue payable to them by inferior holders or by co-sharers in their holdings, under the same rules, except that contained in section 143, and in the same manner as prescribed in Chapter XI of this Act for the realization of land revenue by the Government :

[1][Provided that such application be made within two years, and in the case of alienated or kayamgutta villages into which survey and settlement have been introduced, within six years from the end of the revenue year or the year of tenancy in which the said rent or land revenue became payable :]

And provided further that, when such application is for the recovery of rent or land revenue from an inferior holder, it is based—

firstly, upon a written agreement duly executed by such inferior holder and registered in accordance with the law for the time being in force for the registration of assurances; or

secondly, upon a decision passed under any of the foregoing provisions of this Chapter ; or

thirdly, upon the records of a revenue settlement in force for the time being as proved by Government accounts or by accounts which Government recognizes for the purpose of this section.

Deputy Commissioner how to proceed on such application.

98. On application being made under section 97 to the Deputy Commissioner, he shall cause a written notice thereof to be served on the inferior holder or co-sharer fixing a day for inquiry into the case. On the day so fixed, he shall hold a summary inquiry, and shall pass an order for rendering assistance to the superior holder for

1 Substituted by Act XXI of 1940.

the recovery of such amount, if any, of rent or land revenue as appears to him upon the evidence before him to be lawfully due.

Assistance may be refused or granted to a limited extent only.

But if it appears to the Deputy Commissioner that the question at issue between the parties is of a complicated nature, he may in his discretion either refuse the assistance asked for, or, if the land to which the dispute relates has been assessed under the provisions of Chapter VIII of this Act, or at any survey settlement confirmed by section 121, grant assistance to the extent only of the assessment so fixed upon the said land.

Civil suit not to be barred.

Nothing in this section shall prevent either party from having recourse to the Civil Courts to recover from the other such amount as he may deem to be still due to him, or to have been levied from him in excess of what was due, as the case may be.

Grant of Special Powers to Holders of Alienated Lands.

Government may, by commission, confer certain powers on holders of alienated lands.

99. It shall be lawful for the Government at any time to issue a commission to any holder of alienated lands, conferring upon him all or any of the following powers in respect of the land specified in such commission, namely,—

(*a*) to demand security for the payment of the land revenue or rent due to him, and, if the same be not furnished, to take such precautions as the Deputy Commissioner is authorized to take under sections 147 to 149, except the power to fine under para 3 of section 148, or to sell the crop under section 149;

(*b*) to attach the property of persons making default in the payment of such land revenue or rent as aforesaid;

[1](*c*) to exercise the powers of a Deputy Commissioner under sections 63 and 64;

(*d*) to receive notices of relinquishment under section 71, and to determine the date up to which such notices shall be received as in that section provided; and

1. Clause (*c*) was omitted and the other clauses re-numbered by Act XVII of 1939.

(*e*) to take measures for the maintenance and repair of boundary marks in the manner provided for survey officers in section 130 :

Proviso.

Provided that the powers contemplated in clauses (*c*) to (*e*), both inclusive, shall be conferred only on holders of lands to which a survey settlement has been extended :[1]

And provided further that the Government may in its discretion invest any holders of alienated village with any of the powers of a Deputy Commissioner under this Act, when such holder has, within the thirty years before the passing of this Act, regularly exercised corresponding powers whenever the estate has been in his own management.

Terms of such commission.

100. Every such commission shall be in the form of Schedule F, and shall be liable to be withdrawn at the pleasure of Government ; and a commission may, if the Government see fit, be issued to one or more agents of a holder of alienated lands as well as to the holder in person.

Reference must be made by holder of commission to Deputy Commissioner in certain cases.

101. If the holder of any such commission attach a defaulter's property, he shall make an immediate report to the Deputy Commissioner of his having done so. Should the demand on account of which the attachment has been made appear to the Deputy Commissioner, after such enquiry as he may deem fit to make, to be just, he shall give orders for the sale of the property, and a sale shall be conducted agreeably to the provisions of sections 171 to 192 either by the Deputy Commissioner or his subordinates or by the holder if the Government, by an order under the last proviso to section 99, has authorised the holder to conduct such sale.

When compulsory process shall cease.

102. All compulsory processes shall cease—

on the defaulter's paying or tendering the amount demanded of him under protest ; or

on his furnishing either to the holder of the commission or his agent or agents, or to the Deputy Commissioner, satisfactory security in the form of Schedule D, or to similar effect.

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1 The words "under the provisions of section 286" omitted by Act XVII of 1939.

And any holder of any such commission as aforesaid, by himself or his agents, proceeding with any compulsory process after payment made or tendered as aforesaid, or after the furnishing of such security as aforesaid, or after tender thereof, shall be liable, on conviction in a summary inquiry before the Deputy Commissioner, to a penalty not exceeding three times the amount of the revenue sought to be recovered by such compulsory process.

Power under commission to extend to current and previous year's arrears.

103. The power conferred by any such commission shall extend to the enforcement of the payment of the revenue or rent of the current revenue year and of the revenue year next immediately preceding, but not that of former years.

Holder of commission not to enforce any unusual or excessive demand.

104. The holder of any such commission shall not enforce a demand for revenue or rent in excess of what any inferior holder has paid previously to the date of such demand, or of what he may have contracted to pay by an instrument in writing duly registered in accordance with the law for the time being in force relating to the registration of assurances, or of what may have been decided as the proper amount of rent by a decision under section 88, 92 or 93. In the event of a dispute, the Deputy Commissioner shall hold a summary enquiry and decide what is just, and the holder of the commission shall not enforce a demand for more than what is so decided to be just.

Penalty for so doing.

The person against whom any demand shall have been enforced in excess of the amount of which payment is lawfully enforceable, shall be entitled to recover, on conviction of the holder of the commission in a summary inquiry before the Deputy Commissioner, three times the amount of any such excessive demand by way of damages and the sum so due by the holder of the commission shall be leviable from him as an arrear of land revenue.

Nothing in this Chapter to prevent civil suit.

105. Nothing contained in the provisions of this Chapter shall prevent parties holding the relation of landlord and tenant from seeking remedy in Civil Courts on matters not specially provided for in this Chapter.

(Chapter VIII—Of Survey Settlements and the Partition of Estates).

CHAPTER VIII.

OF SURVEY SETTLEMENTS AND THE PARTITION OF ESTATES.

Survey Settlements.

Revenue survey may be introduced by Government into any part of 1[the whole of the state of Mysore except Bellary District].

106. It shall be lawful for the Government, whenever it may seem expedient, to direct the survey of any land in any part of the 1[whole of the State of Mysore except Bellary District], with a view to the settlement of the land revenue, and to the record and preservation of rights connected therewith, or for any other similar purpose, and such survey shall be called a revenue survey. Such survey may extend to the lands of any village, town or city generally, or to such land only as the Government may direct; and, subject to the orders of the Government, it shall be lawful for the officers conducting any such survey to except from the survey settlement any land to which it may not seem expedient that such settlement should be applied.

Control of revenue survey.

The control of every such revenue survey shall vest in, and be exercised by, the Government.

Survey officer may require, by general notice or by summons, suitable service from holders of land, etc.

107. It shall be lawful for the survey officer deputed to conduct or take part in any such survey to require, by general notice, or by summons, the attendance of holders of land and of all persons interested therein, in person or by legally constituted agent duly instructed and able to answer all material questions, and the presence of taluk and village officers, who, in their several stations and capacities, are legally, or by usage, bound to perform service in virtue of their respective offices, and to require from them such assistance in the operations of the survey, and such service in connection therewith, as may not be inconsistent with the position of the individual so called on.

Assistance to be given by holders and others in the measurement or classification of lands.

108. It shall be lawful for the survey officer to call upon all holders of land and other persons interested therein to assist in the measurement or classification of the lands to which the survey extends, by furnishing flag-holders: and in the event of a necessity for employing hired labour for this or other similar object incidental to

1. *See* the Mysore Adaptation of Laws Order, 1956.

survey operations, it shall be lawful to assess the cost thereof, with all contingent expenses, on the lands surveyed for collection as a revenue demand.

Survey numbers not to be less than a certain extent.

109. Except as hereinafter provided, no survey number comprising land used for purposes of agriculture only shall be made of less extent than a minimum to be fixed from time to time for the several classes of land in each district by the [1][Revenue Commissioner]. A record of the minima so fixed shall be kept in the Amildar's office in each taluk, and shall be open to the inspection of the public at all reasonable time.

[2][*Exception* 1.—These provisions shall not apply to survey numbers which have already been made of less extent than the minima so fixed or which may be so made under the authority of the Revenue Commissioner given either generally or in any particular instance in this behalf : and any survey number separately recognised in the survey records shall be deemed to have been authorizedly made, whatever be its extent.

Exception 2.—Survey numbers may, from time to time, and at any time be divided into so many sub-divisions as may be required in view of the acquisition of rights in land or for any other reason.]

Recognised shares of survey numbers.

110. Recognised shares of survey numbers shall be subject to the same provisions of this Act as are applicable to entire survey numbers, except—

(*a*) that it shall not be obligatory to demarcate such shares separately ; and

(*b*) that if any such share is relinquished by the occupant absolutely under the provisions of section 71, the occupancy thereof shall be offered to the occupants of the other shares of the same survey number in the order of the relative largeness of the amounts payable by them, respectively, on account of the assessment of their said shares ; and that, in the event of their all refusing the occupancy of the said share, the assessment thereon shall, until such time as the entire number is relinquished by them,

1. Substituted for the word " Government " by Act VI of 1906.
2. Substituted by Act XVII of 1928.

be levied from them in proportion to the amounts of assessment payable by them as aforesaid.

Officer in charge of survey to fix assessment.

111. (1) Subject to rules or orders made in this behalf under section 233, the officer in charge of a survey shall have authority to fix the assessment for land revenue at his discretion on all lands within the local operation of an order made under section 106 not wholly exempt from land revenue, and the amounts due according to such assessment shall, subject to the provisions of section 112, be levied on all such lands.

The assessment may be on land, or on means of irrigation etc.

(2) The power to assess under this section shall, in the case of lands used for purposes of agriculture alone, include power to assess, whether directly on the land, or in the form of a rate or cess upon the means of irrigation in respect of which no rate is levied under section 53, or in any other manner whatsoever that may be sanctioned by Government.

Regard to be had to proviso to section 50.

(3) In fixing the assessment under this section, regard shall be had to the requirements of the proviso to section 50.

Proviso.

(4) Nothing in this section shall be deemed to prevent the survey officer aforesaid from determining and registering the proper full assessment on lands wholly exempt from payment of land revenue, or on all lands especially excepted under section 106 from the survey settlement, or from dividing all such lands to which the survey extends into survey numbers.

Assessment not leviable without the sanction of Government, but may be fixed with or without modification by the Government for a term of years.

112. The assessment fixed by the officer in charge of a survey shall not be levied without the sanction of Government. It shall be lawful for the Government to declare such assessment, with any modification which it may deem necessary, fixed for a term of years not exceeding thirty in the case of lands used for the purposes of agriculture alone, and in the case of all other lands for any term or in perpetuity: Provided that nothing in this section shall prevent the Government from fixing the assessment on lands held on coffee tenure or granted for fuel or timber plantations for any term or in perpetuity subject to such conditions as it may prescribe.

(Chapter VIII—Of Survey Settlements and the Partition of Estates).

Introduction of survey settlement how to be made.

113. When, in the case of lands used for the purposes of agriculture alone, Government shall have sanctioned the assessments fixed by the officer in charge of the survey, it shall be the duty of the said officer, or of the Deputy Commissioner, or Assistant Commissioner, publicly to announce, or to cause to be announced, the assessment fixed on each survey number, or recognized share of a survey number.

The said officer, or the Deputy Commissioner, or Assistant Commissioner shall, at a reasonable time beforehand, cause public notice to be given, in such manner as he shall deem fit, of the time at or about which the assessments will be announced as aforesaid.

If the holder or other person interested in any holding do not appear in person or by agent, he shall be subject, nevertheless, to the same liabilities as if he had attended.

When the assessments have been announced in the manner provided in the first clause of this section, the survey settlement shall be held to have been introduced.

The fixing of assessment under section 112 limited to ordinary land revenue.

114. The fixing of the assessment under the provisions of section 112 shall be strictly limited to the assessment of the ordinary land revenue, and shall not operate as a bar to the levy of any cess which it shall be lawful for the Government to impose under the provisions of any law for the time being in force for purposes of local improvement, such as the construction, maintenance and improvement of schools, village and district roads, bridges, tanks, wells, accommodation for travellers, and the like, or of any rate for the use of water which may be imposed under the provisions of section 53.

Government may direct a fresh revenue survey and revision of assessment.

115. It shall be lawful for the Government to direct at any time a fresh revenue survey or any operation subsidiary thereto, but no enhancement of assessment shall take effect till the expiration of the period previously fixed under the provisions of section 112, or of Bombay Act I of 1865.

But improvements made from private capital and resources not to be assessed.

A revised assessment shall be fixed, not with reference to improvements made from private capital and resources during the currency of any settlement made under this Act, or under Bombay Act I of 1865, but with reference to general considerations of the value of

land, whether as to soil or situation, prices of produce, or facilities of communication.

When, in fixing the assessment of any land, regard is had to a natural advantage thereof, and that advantage cannot be fully utilised except by means of an improvement which has not been made at the time of fixing the assessment, nothing in this section shall prevent the Government from foregoing its demand for a portion of the assessment until the expiration of such period after the improvement has been made, as, having regard to the reasonable claims of the person making the improvement and the expediency of encouraging improvements, it may think fit.

Certain improvements may be considered in fixing revised assessment.

116. Nothing in the last preceding section shall be held to prevent a revised assessment being fixed with reference to any improvement effected at the cost of Government.

Preparation of statistical and fiscal records.

117. It shall be the duty of the survey officer, on the occasion of making or revising a settlement of land revenue to prepare a register, to be called "the Settlement Register," showing the area and assessment of each survey number, together with the name of the registered occupant of such survey number, and other records, in accordance with such orders as may from time to time be made in this behalf by Government.

Survey Officer or Deputy Commissioner or Assistant Commissioner to correct clerical and admitted errors in the settlement register.

118. The Survey Officer, or, if the survey settlement have been introduced under the provisions of section 113 by the Deputy Commissioner or Assistant Commissioner, the Deputy Commissioner or Assistant Commissioner shall at any time correct, or cause to be corrected any clerical errors and any errors which the parties interested admit to have been made in the Settlement Register.

And enquire into and pass orders on certain applications for mutation of names.

The Superintendent of Survey or the Deputy Commissioner shall receive and enquire into all applications made to him at any time within two years after the introduction of the survey settlement for the correction of any wrong entry of a registered occupant's name in the said register, and if satisfied that an error has been

made, whether through fraud, collusion, oversight, or otherwise, shall correct or cause the same to be corrected, notwithstanding that all the parties interested do not admit the error; but he shall not receive any such application at any time after two years from the date of the introduction of the survey settlement, unless good cause be shown to his satisfaction for the delay in making such application, and no such correction of the said register shall be made in consequence of any application made after the said period of two years, except with the previous sanction of Government.

Deputy Commissioner to keep survey records and frame village records in accordance therewith.

119. The Deputy Commissioner shall keep the settlement register and such other records, prepared by the survey officer, as Government shall direct, and shall cause the village records and accounts to be prepared in accordance therewith.

And to register changes, etc.

He shall not make any alterations or corrections in the settlement register, but shall cause to be registered in the village records and accounts all changes that may take place, and anything that may affect any of the rights or interests therein recorded.

Assumption of management of alienated villages by Government.

[1][**119-A.** Whenever it appears to the Government that it is expedient in the public interests to take over the management of an alienated village by the Government on account of the minority, unsoundness of mind or other incapacity of the holder, or any other cause, the Government may, by notification in the Official Gazette, order the Deputy Commissioner or any officer of the Government to assume the management of such village temporarily on behalf of the Government, provided that, unless the holder is a minor or of unsound mind the assumption shall not be made without giving notice to the holder and affording him a reasonable opportunity to be heard and to adduce evidence to show that he is fit to manage the village. The Government may, by a like order, release the property from its management as soon as the holder ceases to be a minor or the disability has ceased or for any other reason.]

1. Substituted by Act XVII of 1939.

(Chapter VIII—Of Survey Settlements and the Partition of Estates).

Government management of alienated villages on account of certain misunderstandings in the villages.

[1][**119-B.** When tenants holding interest in not less than half the occupied lands in an alienated village apply to the Deputy Commissioner that the village should be taken under Government management on account of disputes or misunderstanding between them and the inamdar, the Deputy Commissioner shall hold a formal enquiry and if satisfied that it is necessary to take over the village, he shall make a recommendation to the Government. When holders of alienated land holding in the aggregate not less than half the shares in an alienated village apply to the Deputy Commissioner that the village should be taken under Government management on account of misunderstanding between them and their tenants or on account of disputes amongst themselves or for other valid reasons, the Deputy Commissioner shall hold a formal enquiry and if satisfied that the village should be taken over, he shall make a recommendation to the Government. The Government may thereupon order the Deputy Commissioner or any other officer of the Government to assume the management of such village temporarily on behalf of the Government. Management assumed under this section shall not be for a period of less than eight years and nine per cent of the revenue of the village shall be charged to the Inamdar towards the cost of administration.]

Revenue management of villages or estates not belonging to Government that may be temporarily under Government management

120. (1) In the event of any alienated village or estate coming under the temporary management of Government officers, it shall be lawful for the Deputy Commissioner to let out the lands thereof at rates determined by means of a survey settlement, or at such other fixed rates as he may deem to be reasonable, and to sell the occupancy of unoccupied lands by auction, and otherwise to conduct the revenue management thereof under the rules for the management of unalienated lands, so far as such rules may be applicable, and for so long as the said village or estate shall be under the management of Government officers:

Provided, however, that any written agreements relating to the land, made by the superior holder of such village or estate, shall not be affected by any proceedings under this section in so far as they shall

1. Added by Act XVII of 1939.

not operate to the detriment of the lawful claims of Government on the land.

Management of lands, the property of the Palace.

[1][(2) In respect of lands, the property of the Palace, the Deputy Commissioner, in the case of lands under the management of Government, and the Palace Controller or other officer nominated by Government in this behalf, in the case of lands under the direct management of the Palace, may exercise all the powers conferred on a Deputy Commissioner by this Act in respect of unalienated land.]

Maintenance of existing settlements of land revenue.

121. Existing survey settlements of land revenue, made, approved and confirmed under the authority of the Government, shall be, and are hereby declared to be, in force, subject to the provisions of this Act.

Partition.

Rules for partition of estate paying revenue to Government.

122. The following rules shall be enforced at the partition of any estate paying land revenue to Government, namely :—

(1) the estate shall be divided as far as possible according to survey numbers without sub-dividing any number; but if the partition cannot be completely effected without sub-dividing a number, such sub-division may be made by the Deputy Commissioner, subject to the provisions of section 109 :

(2) any number or sub-division of a number, which may remain over after the partition has been carried out, as far as possible according to the last rule, and which is incapable of sub-division or of further sub-division owing to the provisions of section 109, shall be made over to one of the sharers in consideration of his paying to the other sharers the value in money of their shares in the same, or shall be sold and the proceeds divided amongst all the sharers, or otherwise disposed of, as the Deputy Commissioner thinks fit :

1 Added by Act I of 1919.

(3) the expenses necessarily and properly incurred in making such partition shall be recoverable as a revenue demand in such proportions as the Deputy Commissioner thinks fit from the sharers at whose request it is made, or from the persons interested in such partition.

Partition of alienated village by the Deputy Commissioner on application by co-sharers.

123. Whenever any one or more co-sharers in an alienated village into which a revenue survey has been introduced consent to a partition of the said estate, it shall be lawful for the Deputy Commissioner, or for any other officer duly empowered by him in this behalf, subject to the rules contained in the last preceding section, to divide the said village into shares according to the respective rights of the co-sharers, and to allot such shares to the co-sharers :

Proviso.

Provided that no such partition shall be made, unless :—

(*a*) all the co-sharers are agreed as to the extent of their respective rights in the village ; and

(*b*) the assessment of the share or shares or the sharer or sharers consenting to such partition exceeds one-half of the assessment of the entire village.

In such cases the expenses of partition shall be recovered under rule (3) of the last preceding section from all the co-sharers in the village divided.

Sub-division of numbers at time of revision of survey.

124. At the time of a revision of survey, it shall be in the discretion of the officer in charge of the survey, subject to the provisions of section 109 and to any departmental rules or order in this behalf at the time in force, to sub-divide any survey number into two or more distinct numbers, and to enter the names and liabilities of the persons whom he shall deem entitled to be recognised as registered occupants of such sub-divisions in the settlement register separately.

Separate demarcation of land appropriated under section 63 or 65.

125. When any portion of cultivable land is appropriated under the provisions of section 63 or 65 for any non-agricultural purpose, the portion so appropriated may, with the sanction of the Deputy Commissioner, be demarcated, and made into a separate number at any time, notwithstanding the provisions of section 109.

(Chapter IX—The Settlement of Boundaries and the Construction and Maintenance of Boundary Marks).

CHAPTER IX.

THE SETTLEMENT OF BOUNDARIES AND THE CONSTRUCTION AND MAINTENANCE OF BOUNDARY MARKS.

Determination of village boundaries.

126. The boundaries of villages situated in the [1][whole of the State of Mysore except Bellary District] shall be fixed, and all disputes relating thereto shall be determined by survey officers, or by such other officers as may be nominated by Government for the purpose, who shall be guided by the following rules:—

Village boundaries may be settled by agreement.

Rule 1.—When the patels and other village officers of any two or more adjoining villages, and, in the case of an alienated village, the holder thereof or his duly constituted agent, shall voluntarily agree to any given line of boundary as the boundary common to their respective villages, the officer determining the boundary shall require the said parties to execute an agreement to that effect, and shall then mark off the boundary in the manner agreed upon. And any village boundary fixed in this manner shall be held to be finally settled, unless it shall appear to the said officer that the agreement has been obtained by fraud, intimidation, or any other illegal means.

Procedure in case of disagreement or dispute.

Rule 2.—If the patels and other village officers, and, in the case of an alienated village, the holder thereof or his duly constituted agent, do not agree to fix the boundaries of their respective villages in the manner prescribed in the preceding rule, or if it shall appear to the said officer that the agreement has been obtained by fraud, intimidation or any other illegal means, or if there be any pending dispute, the said officer shall make a survey and plan of the ground in dispute, exhibiting the land claimed by the contending parties, and all particulars relating thereto, and shall hold a formal enquiry into the claims of the said parties, and thereafter make an award in the case. If either of the villages concerned be alienated, an award made by a survey officer shall, unless the officer making it be the Superintendent of Survey, be subject to his confirmation.

Determination of field boundaries.

127. If, at the time of survey, the boundary of a field or holding be undisputed, and its correctness be affirmed

1. *See* the Mysore Adaptation of Laws Order, 1953.

by the village officers then present, it may be laid down as pointed out by the holder or person in occupation, and if disputed, or if the said holder or person in occupation be not present, it shall be fixed by the survey officer according to the village records, and according to occupation as ascertained from the village officers and the holders of adjoining lands, or on such other evidence or information as the survey officer may be able to procure.

If any dispute arise concerning the boundary of a field or holding which has not been surveyed, or if, at any time after the survey records have been handed over to the Deputy Commissioner, a dispute arise concerning the boundary of any survey number, it shall be determined by the Deputy Commissioner, who shall be guided, in the case of survey numbers, by the survey records, if they afford satisfactory evidence of the boundary previously fixed, and, if not, by such other evidence as he may be able to procure.

Settlement of boundary dispute by arbitration.

128. If the several parties concerned in a boundary dispute agree to submit the settlement thereof to an arbitration committee, and make application to that effect in writing, the officer whose duty it would otherwise be to determine the boundary shall require the said parties to nominate a committee of not less than three persons, within a specified time, and if, within a period to be fixed by the said officer, the committee so nominated or a majority of the members thereof arrive at a decision, such decision, when confirmed by the said officer or if the said officer be a survey officer lower in rank than a Superintendent of Survey, by the Superintendent of Survey, shall be final:

When award may be remitted for reconsideration.

Provided that the said officer or the Superintendent of Survey shall have power to remit the award or any of the matters referred to arbitration, to the reconsideration of the same committee for any of the causes set forth in section 520 of the Code of Civil Procedure.

If arbitration fail, survey officer to settle the dispute.

If the committee appointed in the manner aforesaid fail to effect a settlement of the dispute within the time specified, it shall be the duty of the officer aforesaid, unless he, or, if the said officer is a survey officer lower in rank than a Superintendent of Survey, the Superintendent

of Survey, see fit to extend the time, to settle the same as otherwise provided in this Act.

Effect of the settlement of boundary.

129. [1](1) The settlement of the boundary under any of the foregoing provisions of this Chapter shall be determinative—

(*a*) of the proper position of the boundary line or boundary marks; and

(*b*) of the rights of the landholders on either side of the boundary fixed in respect of the land adjudged to appertain, or not to appertain, to their respective holdings.

(2) Where a boundary has been so fixed, the Deputy Commissioner may at any time summarily evict any landholder who is wrongfully in possession of any land which has been adjudged in the settlement of a boundary not to appertain to his holding or to the holding of any person through or under whom he claims.

Boundary Marks.

Construction and repair of boundary marks of survey numbers and villages.

130. It shall be lawful for any survey officer authorized by a Superintendent of Survey or Settlement Officer to cause to be constructed or repaired boundary marks of villages or survey numbers, whether cultivated or uncultivated, and to assess all charges incurred thereby on the holders or others having an interest therein.

Requisition on landholders to erect or repair boundary marks.

Such officer may require landholders to construct or repair their boundary marks by a notification, which shall be posted in the *chavadi* or other public place in the village to which the lands under survey belong, directing the holders of survey numbers to construct or repair, within a specified time, the boundary marks of their respective survey numbers, and on their failure to comply with the requisitions so made, the survey officer shall then construct or repair them, and assess all charges incurred thereby as hereinbefore provided.

A general notification to be good and sufficient notice of requisition.

A general notification issued in the manner aforesaid, shall be held to be good and sufficient notice to each and every person having any interest in any survey numbers within the limits of the lands to which the survey extends.

1. Section 129 was renumbered as sub-section (1) of that section and sub-section (2) was added by Act V of 1934.

(Chapter X—Of Land within the Sites of Villages, Towns and Cities).

Description of boundary marks.

The size, material and description of boundary marks shall be such as may, under the orders of Government, be fixed by the Superintendent of Survey, according to the requirements of soil and climate.

Responsibility for the maintenance of boundary marks.

131. Every landholder shall be responsible for the maintenance and good repair of the boundary marks of his holding, and for any charges reasonably incurred on account of the same by the revenue officers in cases of alteration, removal, or disrepair. It shall be the duty of village officers and servants to prevent the destruction or unauthorized alteration of the village boundary marks.

Deputy Commissioner to have charge of boundary marks after introduction of the survey settlement.

132. When the survey settlement shall have been introduced into a district, the charge of the boundary marks shall devolve on the Deputy Commissioner, and it shall be his duty to take measures for their maintenance and repair, and for this purpose the powers conferred on survey officers by section 130 shall vest in him.

Penalty for injuring boundary marks.

133. Any person convicted, after a summary enquiry before the Deputy Commissioner, or before a survey officer not lower in rank than an Assistant Superintendent of Survey, of wilfully erasing, removing or injuring a boundary mark, or unauthorisedly erecting a boundary mark, shall be liable to a fine not exceeding fifty rupees for each mark so erased, removed, injured, or erected.

CHAPTER X.

Of Land within the Sites of Villages, Towns and Cities.

Limit of sites of villages, towns and cities how to be fixed, and assignment of building sites.

134. It shall be lawful for the Deputy Commissioner or for a survey officer acting under the general or special orders of Government, to determine what lands are included within the site of any village, town or city, to fix, and from time to time to vary the limits of the same, respect being had to all subsisting rights of landholders, and to set apart for building sites within such limits any lands which may be the property of Government and not in the lawful occupation of any person or aggregate of persons, provided that no land hitherto used for purposes of agriculture only shall be set apart for building sites except

under the special or general sanction of the Government. Land already set apart for building sites within the sites of any village, town or city, shall be deemed to have been so set apart under this section.

Disposal of building sites.

135. It shall be lawful for the Deputy Commissioner [1][or such other authority as the Government may authorise in this behalf] to dispose of lands set apart for building sites under section 134, in such manner as may be directed by rules which the Government may, from time to time, frame in that behalf, either subject to or exempt from liability to payment of land revenue, as may be directed by such rules.

Occupancy right confirmed.

136. The existing right of occupancy of all lands within the sites of villages, towns and cities, is hereby confirmed so far as the interest of Government is concerned, only excepting the case of encroachments, as provided for in section 37 of this Act.

Existing exemptions confirmed.

137. Existing exemptions from payment of land revenue of lands situate within the sites of villages, towns and cities are hereby confirmed—

If land is an inam.

Firstly, if such lands be alienated lands recognized by competent authority as wholly or partially exempt from the payment of land revenue;

If non-agricultural land has hitherto actually enjoyed exemption.

Secondly, if such lands, being other than lands ordinarily used for purposes of agriculture, have been held wholly or partially exempt from payment of land revenue at the time of the introduction of this Act;

Agricultural land has hitherto enjoyed exemption as backyards or *hittals*.

Thirdly, if such lands, being ordinarily used for purposes of agriculture, have been held exempt from payment of land revenue at the time of the introduction of this Act, having been excepted from a survey settlement already introduced on the ground of their being backyards or *hittals* attached to buildings or of its being deemed inexpedient to apply a survey settlement to them.

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1. Inserted by Act, XVII of 1928.

(*Chapter X—Of Land within the Sites of Villages, Towns and Cities*).

Government may declare what lands in villages, etc., ordinarily used for agriculture shall be exempt from land revenue.

(2) The Government may from time to time make, and from time to time vary or rescind, rules—

(*a*) declaring the nature, extent, description and situation of lands ordinarily used for purposes of agriculture within the sites of villages, towns and cities, to which a survey settlement shall not be applied and which shall be exempt from land revenue; and

And fix assessment for a term or in perpetuity.

(*b*) fixing the assessment on lands not exempt from land revenue, and situated within the sites of villages, towns and cities, for any term or in perpetuity, anything in section 112 notwithstanding.

Inam lands hitherto used for purposes of agriculture only appropriated to other purposes.

138. If any land within the sites of any village, town or city, hitherto ordinarily used for agricultural purposes only and partially exempt from the payment of land revenue, be appropriated to any other purposes, it shall be liable to the payment of one-eighth of the rate fixed for unalienated land used for similar purposes in the same locality, in addition to the quit-rent payable in respect of such land.

Survey of lands in sites of villages, towns and cities how to be conducted.

139. If the Government shall at any time deem it expedient to direct a survey of the lands other than those used ordinarily for the purposes of agriculture only within the site of any village, town or city, under the provisions of section 106, or a fresh survey thereof under the provisions of section 115; such survey shall be conducted, and all its operations shall be regulated, according to the provisions of Chapters VIII and IX of this Act, due regard being had to all existing exemptions from the payment of land revenue confirmed by section 137:

Proviso.

Provided that nothing contained in sections 107, 108, 111 para (2), 113 or 126 thereof shall be considered applicable to any such survey in any town or city containing more than two thousand inhabitants.

In certain cases a survey fee to be charged.

140. When a survey is extended under the provisions of the last preceding section to the site of any town or city containing more than two thousand inhabitants, each holder of a building site shall be liable to the payment of a survey fee to be assessed by the Deputy Commissioner

under such rules as may be prescribed in this behalf from time to time by Government:

Provided that the said fee shall in no case exceed rupees five for each survey number. The said survey fee shall be payable within six months from the date of a public notice to be given in this behalf by the Deputy Commissioner after the completion of the survey of the site of the town or city or such part thereof as the notice shall refer to.

Sannad to be granted without extra charge.

141. Every holder of a building site as aforesaid shall be entitled, after payment of the said survey fee, to receive from the Deputy Commissioner without extra charge one or more sannads, in the form of Schedule 'G,' specifying by plan and description the extent and conditions of his holding.

Proviso.

Provided that, if such holder do not apply for such sannad or sannads at the time of payment of the survey fee or thereafter within six months from the date of the public notice issued by the Deputy Commissioner under the last preceding section, the Deputy Commissioner may require him to pay an additional fee not exceeding one rupee for each sannad.

Every such sannad shall be executed on behalf of the Government by such officer as may, from time to time, be lawfully empowered to execute the same.

CHAPTER XI.

OF THE REALIZATION OF THE LAND REVENUE AND OTHER REVENUE DEMANDS.

Responsibility for Land Revenue.

Primary responsibility.

142. The registered occupant shall be primarily responsible to Government for the land revenue of unalienated land, and the superior holder shall be primarily responsible to Government for the land revenue of alienated land.

Recovery of land revenue if the person primarily responsible fails to pay it.

On failure of the person primarily responsible to Government for the land revenue to pay the same according to the rules legally prescribed in that behalf, it may be recovered from the co-occupant of unalienated land or the co-sharer of alienated land, or in either case from the

inferior holder or person in actual occupation of the land.

Credit to be allowed to inferior holder for recoveries made from him.

When the land revenue is recovered from any such occupant, co-sharer, inferior holder, or other person, he shall be allowed credit for all payments which he may have made to the registered occupant, or superior holder, or to his landlord, at or after the prescribed or usual times of such payments, and he shall be entitled to credit in account with the registered occupant or superior holder or with his landlord for the amount recovered from him.

Priority of Government Claim for Land Revenue.

Claims of Government to have precedence over all others.

143. The claim of Government to any moneys recoverable under the provisions of this Chapter shall have precedence over any other debt, demand or claim whatsoever, whether in respect of mortgage, judgment decree, execution or attachment, or otherwise, howsoever, against any land or the holder thereof.

Liability of crop for revenue of land.

144. In all cases, the land revenue, for a revenue year, of land used for agricultural purposes, if not otherwise discharged, shall be recoverable, in preference to all other claims, from any crop planted or harvested during such year on the land subject to the same.

Land Revenue when leviable.

Land revenue may be levied at any time during the revenue year.

145. The land revenue shall be leviable on or at any time after the first day of the revenue year for which it is due; but, except when precautionary measures are deemed necessary under the provisions of sections 148 to 150, payment will be required only on the dates to be fixed under the provisions hereinafter contained.

Precautionary Measures for the Security of the Land Revenue.

Removal of crop which has been sold, etc., may be prevented until the revenue is paid.

146. When the crop of any land or any portion of the same is sold, mortgaged or otherwise disposed of, whether by order of a Civil Court or other public authority or by private agreement, the Deputy Commissioner may prevent its being removed from the land until the revenue of the said land recoverable under section 144 has been paid, whether the date fixed for the payment of the same, under the provisions hereinafter contained, has yet arrived

or not. But in no case shall a crop, or any portion of the same, which has been sold, mortgaged, or otherwise disposed of, be detained on account of more than one year's revenue.

In order to secure the land revenue the Deputy Commissioner may

147. It shall be lawful for the Deputy Commissioner, in order to secure the payment of the land revenue by the enforcement of the lien of Government on the crop,—

prevent the reaping of the crop.

(*a*) to require that the crop growing on any land liable to the payment of land revenue shall not be reaped until a notice in writing has first been given to himself or to some other officer to be named by him in this behalf, and such notice has been returned endorsed with an acknowledgment of its receipt;

the removal thereof, or

(*b*) to direct that no such crop shall be removed from the land on which it has been reaped, or from any place in which it may have been deposited, without the written permission of himself or of some other officer as aforesaid;

place watchmen over it.

(*c*) to cause watchmen to be placed over any such crop to prevent the unlawful reaping or removal of the same, and to realise the amount required for the remuneration of the said watchmen, at such rate not exceeding the rate of pay received by the peons on his establishment as he may deem fit, as an arrear of land revenue due in respect of the land to which such crop belongs.

Deputy Commissioner's order under last section how to be made known.

148. The Deputy Commissioner's order under either clause (*a*) or clause (*b*) of the last preceding section may be issued generally to all the holders of land paying revenue to Government in a village, or to individual holders merely.

If the order be general, it shall be made known by public proclamation to be made by beat of drum in the village and by affixing a copy of the order in the *chavadi*, or some other public building in the village. If it be to individual holders, a notice thereof shall be served on each holder concerned.

(Chapter XI—Of the Realization of the Land Revenue and Other Revenue Demands).

Penalty for disobedience of order.

Any person who shall disobey any such order after the same has been so proclaimed, or a notice thereof has been served upon him, or who shall, within the meaning of the Indian Penal Code, abet the disobedience of any such order, shall be liable, on conviction after summary inquiry by the Deputy Commissioner, to a fine not exceeding double the amount of the land revenue due on the land to which the crop belongs in respect of which the offence is committed.

Reaping, etc., not to be unduly deferred.

Crop when to be released.

149. The Deputy Commissioner shall not defer the reaping of the crop, or prolong its deposit unduly so as to damage the produce; and if, within two months after the crop has been deposited, the revenue due has not been discharged, he shall either release the crop and proceed to realize the revenue in any other manner authorized by this Chapter, or take such portion thereof as he may deem fit for sale under the provisions of this Chapter applicable to sales of movable property in realization of the revenue due and of all legal costs, and release the rest:

Proviso.

Provided that the limit of two months shall not apply to articles of a perishable nature which shall immediately be sold as provided in section 174.

Temporary attachment and management of a village or share of a village.

150. If, owing to disputes among the sharers, or for other cause, the Deputy Commissioner shall deem that there is reason to apprehend that the land revenue payable in respect of any holding consisting of an entire village or of a share of a village will not be paid as it falls due, he may cause the village or share of a village to be attached and taken under the management of himself or any agent whom he appoints for that purpose.

Section 166 to apply.

Disposal of surplus profits.

The provisions of section 166 shall apply to any village or share of a village so attached, and all surplus profits of the land attached, beyond the cost of such attachment and management, including the payments of the land revenue and the cost of the introduction of a revenue survey, if the same be introduced under the provisions of section 120, shall be kept in deposit for the eventual benefit of the person or persons entitled to the same or paid to the said person or persons from time to time, as the Deputy

(Chapter XI—Of the Realization of the Land Revenue and Other Revenue Demands).

Commissioner, subject to the orders of the [1][Revenue Commissioner] may direct.

Precautionary measures to be relinquished on security being furnished.

151. The precautionary measures authorized by the last five sections shall be relinquished if the person primarily responsible for the payment of revenue, or any person who would be responsible for the same if default were made by the person primarily responsible, shall pay the costs, if any, lawfully incurred by the Deputy Commissioner up to the time of such relinquishment, and shall furnish security satisfactory to the Deputy Commissioner for the payment of the revenue at the time at which, or in the instalments, if any, in which, it is payable under the provisions hereinafter contained.

Regulation of payment of Land Revenue.

Government to determine the dates, etc., on which land revenue shall be payable.

152. Land revenue, except when it is recovered under the provisions of the foregoing sections 146 to 150, shall be payable at such times, in such instalments, to such persons and at such places as may, from time to time, be determined by the orders of Government.

Defaulters.

Arrear defaulters.

153. Any sum not so paid becomes thereupon an arrear of land revenue; and the persons responsible for it, whether under the provisions of section 142 or of any other section, become defaulters.

Liability incurred by default.

154. If any instalment of land revenue be not fully paid within the prescribed time, it shall be lawful for the Deputy Commissioner to proceed to levy at once the entire balance of land revenue due by the defaulter for the current revenue year, in addition to such charge as a penalty, or by way of interest, as may be authorised according to a scale to be fixed, from time to time, under the orders of the Government.

Certified account to be evidence as to arrears.

155. A statement of account certified by the Deputy Commissioner or by an Assistant Commissioner shall, for the purposes of this Chapter, be conclusive evidence of the existence of the arrear of the amount of land revenue due, and of the person who is the defaulter.

1. Substituted for the word "Government" by Act VI of 1906.

(Chapter XI—Of the Realization of the Land Revenue and Other Revenue Demands).

Deputy Commissioners may realize each other's demands.

On receipt of such certified statement, it shall be lawful for the Deputy Commissioner of one district to proceed to recover the demands of the Deputy Commissioner of any other district under the provisions of this Chapter as if the demand arose in his own district.

Recovery of Arrears.

Process for recovery of arrears.

156. An arrear of land revenue may be recovered by the following processes:—

(*a*) by serving a written notice of demand on the defaulter under section 158;

(*b*) by forfeiture of the occupancy or alienated holding in respect of which the arrear is due under section 159;

(*c*) by distraint and sale of the defaulter's movable property under section 160;

(*d*) by sale of the defaulter's immovable property under section 161;

(*e*) by arrest and imprisonment of the defaulter under sections 163 and 164;

(*f*) in the case of alienated holdings consisting of entire villages, or shares of villages by attachment of the said villages or shares of villages under sections 165 to 169.

Revenue demands of former years; how recoverable.

157. The said processes may be employed for the recovery of arrears of former years as well as of the current revenue year, but the preference given by section 143 shall, except in cases falling under section 54, apply only to demands for the current revenue year, and the preference given by section 144 shall apply only to demands for the year in which the crop is planted or harvested:

Proviso.

Provided that any process commenced in the current year shall be entitled to the said preferences, notwithstanding that it may not be fully executed within that year.

Notice of Demand.

When notice of demand may issue.

158. A notice of demand may be issued on or after the day following that on which the arrear accrues.

The [1][Revenue Commissioner] may, from time to time, frame rules for the issue of such notices, and

1. Substituted for the word 'Government' by Act VI of 1906.

(Chapter XI—Of the Realization of the Land Revenue and Other Revenue Demands).

[1][with the sanction of the Government shall fix] the costs recoverable from the defaulter as an arrear of revenue, and direct by what officer such notices shall be issued.

Forfeiture of Occupancy or Alienated Holding.

The occupancy or alienated holding for which arrear is due may be forfeited.

159. The Deputy Commissioner may declare the occupancy or alienated holding in respect of which an arrear of land revenue is due to be forfeited to Government, and sell or otherwise dispose of the same under the provisions of sections 54 and 55, and credit the proceeds, if any, to the defaulter's accounts.

Sale of Defaulter's Property.

Distraint and sale of defaulter's movable property. By whom to be made.

160. The Deputy Commissioner may also cause the defaulter's movable property to be distrained and sold. Such distraint shall be made by such officers or class of officers as the [2][Revenue Commissioner] [3]* * * may, from time to time, direct.

Sale of defaulter's immovable property.

161. The Deputy Commissioner may also cause the right, title and interest of the defaulter in any immovable property, other than the land on which the arrear is due, to be sold.

Exemption from distraint and sale.

162. All such property as is by the Civil Procedure Code exempted from attachment, or sale in execution of a decree, shall also be exempted from distraint or sale under either of the last two preceding sections.

The Deputy Commissioner's decision as to what property is so entitled to exemption shall be final.

Arrest and Imprisonment.

Arrest and detention of defaulter.

163. At any time after an arrear becomes due, and after a written notice of demand under section 158 has been served without effect, if the Deputy Commissioner shall have reason to believe that the defaulter is wilfully withholding payment of the arrears or has been guilty of fraudulent conduct in order to evade payment, it shall be lawful for him to arrest and detain the defaulter in custody for ten days in the office of the Deputy Commissioner or of an Amildar or Deputy Amildar, unless the revenue due,

1. Inserted by Act VI of 1906.
2. Substituted for the word 'Government' by Act VI of 1906.
3. The words 'under the orders of Government' were omitted by Act VIII of 1920.

together with the penalty or interest and the costs of arrest and of notice of demand, if any, have issued, and the cost of his subsistence during detention is sooner paid.

Imprisonment in civil jail.

If on the expiry of ten days, the amount due by the defaulter is not paid, then, or, if the Deputy Commissioner deem fit, on any earlier day, he may be sent by the Deputy Commissioner with a warrant, in the form of Schedule C, for imprisonment in the civil jail of the district:

Proviso.

Provided as follows:—

Duration of defaulter's custody.

Firstly, that no defaulter shall be detained in imprisonment for a longer period than the time limited by law in the case of the execution of a decree of a Civil Court for a debt equal in amount to the arrear of revenue due by such defaulter;

Exemption of minor, lunatic, idiot, and female.

Secondly, that no minor, lunatic, idiot or female shall be liable to be arrested under this section;

Power to Government to exempt particular places or individuals.

Thirdly, that the Government may, by special or general order, exempt particular places or individuals from the provisions of this section during such time as may be specified in such order, and it may from time to time cancel such order.

Power of arrest by whom to be exercised.

164. [1][The Revenue Commissioner may, with the sanction of Government] from time to time, declare by what officers, or class of officers, the powers of arrest conferred by section 163 may be exercised, and also fix the costs of arrest and the amount of subsistence money to be paid by Government to any defaulter under detention or imprisonment.

Attachment of Villages.

Power to attach defaulter's village, and take it under management.

165. If the holding in respect of which an arrear is due consists of an entire village or of a share of a village, and the adoption of any of the other processes before specified is deemed inexpedient, the Deputy Commissioner may, with the previous sanction of the [2][Revenue Commissioner,] cause such village or share of a village to be

1. Substituted for the words 'Government may' by Act VI of 1906.
2. Substituted for the word 'Government' by Act VI of 1906.

attached, and taken under the management of himself or any agent or officer whom he appoints for that purpose.

Lands of such village to revert to Government free of encumbrances.

166. [1](1) The lands of any village or share of a village so attached shall revert to Government unaffected by the acts of the superior holder or of any of the sharers, or by any charges or liabilities subsisting against such lands or against such superior holder or sharers as are interested therein, so far as the public revenue is concerned, but without any prejudice in other respects to the rights of individuals ;

Deputy Commissioner or agent entitled to manage the lands attached.

and the Deputy Commissioner, or the agent or officer so appointed, shall be entitled to manage the lands attached, and to receive all rents and profits accruing therefrom to the exclusion of the superior holder or any of the sharers thereof, until the Deputy Commissioner restores the said superior holder to the management thereof.

Recovery of rent, etc., due during such management.

[2](2) The Deputy Commissioner or the agent or officer so appointed shall, during such management, be entitled to recover under the provisions of this Chapter all such rents or profits accruing in or after the revenue year in which such attachment was effected, provided that proceedings for such recovery are taken within six years from the end of the revenue year for which the said rent or profit became due.

Application of surplus profits.

167. All surplus profits of the lands attached, beyond the cost of such attachment and management, including the payment of the current revenue and the cost of the introduction of a revenue survey, if the same be introduced under the provisions of section 120 of this Act, shall be applied in defraying the said arrear.

Restoration of a village so attached.

168. The village or share of a village so attached shall be released from attachment, and the management thereof shall be restored to the superior holder, on the said superior holder making an application to the Deputy Commissioner for that purpose at any time within twelve years from the 1st April next after the attachment, if at the time that such application is made it shall appear that the arrear has been liquidated, or if the said superior holder shall be willing to pay the balance, if any, still due

1. Section 166 was re-numbered as sub-section (1) by Act V of 1934.
2. Added by Act V of 1934.

by him, and shall do so within such period as the Deputy Commissioner may prescribe in that behalf.

Disposal of surplus receipts.

The Deputy Commissioner shall make over to the superior holder the surplus receipts, if any, which have accrued in the year in which his application for restoration of the village or share of a village is made, after defraying all arrears and costs, but such surplus receipts, if any, of previous years shall be at the disposal of Government.

Village, etc., to vest in Government if not redeemed within twelve years.

169. If no application be made for the restoration of a village or portion of a village so attached within the said period of twelve years, or if, after such application has been made, the superior holder shall fail to pay the balance, if any, still due by him, within the period prescribed by the Deputy Commissioner in this behalf, the said village or portion of a village shall thenceforward vest in Government free from all encumbrances created by the superior holder or any of the sharers or any of his or their predecessors in title or in any wise subsisting as against such superior holder or any of the sharers, but without prejudice to the rights of the actual occupants of the soil.

Stay of Proceedings.

All processes to be stayed on security being given.

170. Any defaulter detained in custody, or imprisoned, shall forthwith be set at liberty, and the execution of any process shall, at any time, be stayed, on the defaulters giving before the Deputy Commissioner or other person nominated by him for the purpose, or if the defaulter is in jail, before the officer in charge of such jail, security in the form of Schedule D satisfactory to the Deputy Commissioner, or to such other person or officer.

Or on the amount demanded being paid under protest.

And any person against whom proceedings are taken under this Chapter may pay the amount claimed, under protest, to the officer taking such proceedings, and upon such payment the proceedings shall be stayed, and the person, if in custody, shall be forthwith set at liberty.

Procedure in respect of Sales.

Procedure in effecting sales.

171. When any sale of either movable or immovable property is ordered under the provisions of this Chapter, the Deputy Commissioner shall issue a proclamation in Kanarese of the intended sale, specifying the time and place of sale, and in the case of movable property,

whether the sale is subject to confirmation or not, and, when land paying revenue to Government is to be sold, the revenue assessed upon it, together with any other particulars he may think necessary.

Proclamation of sale.

Such proclamation shall be made by beat of drum at the headquarters of the taluk, and in the village in which the immovable property is situate, if the sale be of immovable property; if the sale be of movable property, the proclamation shall be made in the village in which such property was seized, and in such other places as the Deputy Commissioner may direct.

Notification of sale.

172. A written notice of the intended sale of immovable property, and of the time and place thereof, shall be affixed in each of the following places, *viz.*, the office of the Deputy Commissioner of the district, the office of the Amildar or Deputy Amildar of the taluk in which the immovable property is situate, the *chavadi* or some other public building in the village in which it is situate and the defaulter's dwelling place.

In the case of movable property, the written notice shall be affixed in the Amildar's or Deputy Amildar's office, and in the *chavadi* or some other public building in the village in which such property was seized.

The Deputy Commissioner may also cause notice of any sale, whether of movable or immovable property to be published in any other manner that he may deem fit.

Sales by whom to be made.

173. Sales shall be made by auction by such persons as the Deputy Commissioner may direct.

Time when sale may be made.

No such sale shall take place on a general holiday recognized by Government, nor until after the expiration of at least thirty days in the case of immovable property, or seven days in the case of movable property, from the latest date on which any of the said notices shall have been affixed as required by the last preceding section.

Postponement of sale.

The sale may, from time to time, be postponed for any sufficient reason.

Sale of perishable articles.

174. Nothing in the last three sections applies to the sale of perishable articles. Such articles shall be sold by auction with the least possible delay, in accordance with such orders as may, from time to time, be made by

the Deputy Commissioner either generally or specially in that behalf.

When sale may be stayed.

175. If the defaulter, or any person on his behalf, pay the arrear in respect of which the property is to be sold, and all other charges legally due by him, at any time before the property is knocked down, to the person appointed under section 152 to receive payment of the land revenue due, or to the officer appointed to conduct the sale, or if he furnish security under section 170, the sale shall be stayed.

Sales of movable property when liable to confirmation.

176. Sales of perishable articles shall be at once finally concluded by the officer conducting such sales. All other sales of movable property shall be finally concluded by the officer conducting such sales, or shall be subject to confirmation, as may be directed in orders to be made by the Deputy Commissioner either generally or specially in that behalf. In the case of sales made subject to confirmation, the Deputy Commissioner shall direct by whom such sales may be confirmed.

Mode of payment for movable property when sale is concluded at once.

177. When the sale of any movable property is finally concluded by the officer conducting the same, the price of every lot shall be paid for at the time of sale, or as soon after as the said officer shall direct, and in default of such payment, the property shall forthwith be again put up and sold. On payment of the purchase money, the officer holding the sale shall grant a receipt for the same, and the sale shall become absolute as against all persons whomsoever.

Mode of payment for movable property when sale is subject to confirmation.

178. When the sale of any movable property is subject to confirmation, the party who is declared to be the purchaser shall be required to deposit immediately twenty-five per centum on the amount of his bid, and in default of such deposit, the property shall forthwith be again put up and sold. The full amount of purchase money shall be paid by the purchaser before sunset of the day after he is informed of the sale having been confirmed, or if the said day be an authorized holiday, then before sunset of the first office day after such day. On payment of such full amount of the purchase money, the purchaser shall be granted a receipt for the same and the sale shall become absolute as against all persons whomsoever.

(Chapter XI— Of the Realization of the Land Revenue and Other Revenue Demands).

Deposit by purchaser in case of sale of immovable property.

179. In all cases of sale of immovable property, the party who is declared to be the purchaser shall be required to deposit immediately twenty-five per centum on the amount of his bid, and, in default of such deposit, the property shall forthwith be again put up and sold.

Purchase money when to be paid.

180. The full amount of purchase money shall be paid by the purchaser before sunset of the fifteenth day from that on which the sale of the immovable property took place, or if the said fifteenth day be an authorized holiday, then before sunset of the first office day after such fifteenth day.

Permission to purchase by party entitled to payment of money.

[1][**180A.** Notwithstanding anything contained in sections 179 and 180, the party entitled to the payment of the money for recovery of which a sale of immovable property is held, may apply to the Deputy Commissioner for permission to purchase such property which may be granted subject to such rules as may be prescribed by the Government in this behalf, and where a party purchases with such permission, the purchase money due by him and the amount for the recovery of which the sale is held may be set off against one another.]

Effect of default.

181. In default of payment within the prescribed period of the full amount of purchase money, whether of movable or immovable property, the deposit, after defraying thereout the expenses of the sale [2][shall, at the discretion of the Deputy Commissioner, be liable to be forfeited to Government either wholly or in part] and the property shall be resold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may be subsequently sold.

Liability of purchaser for loss by resale.

182. If the proceeds of this [2][resale which is held by reason of the purchaser's default] be less than the price bid by such defaulting purchaser, the difference shall be recoverable from him by the Deputy Commissioner as an arrear of land revenue.

Notification before resale.

183. Every resale of property in default of payment of the purchase money, or after postponement of the first sale, shall, except when such resale takes place forthwith,

1. Added by Act IV of 1936.
2. Substituted by Act II of 1916.

be made after the issue of a fresh notice in the manner prescribed for original sales.

Setting aside sale on deposit of solatium to the purchaser and arrears by person interested.

[1][**183A.** (1) Any person owning or claiming any interest in immovable property sold under this Act may, at any time within 30 days from the date of sale, deposit in the treasury of the taluk in which the immovable property is situate—(*a*) a sum equal to 5 per centum of the purchase money and (*b*) a sum equal to the arrears of revenue for which the immovable property was sold together with interest thereon and the expenses of attachment, management, and sale and other costs due in respect of such arrears; and may apply to the Deputy Commissioner to set aside the sale.

(2) If such deposit and application are made within 30 days from the date of sale, the Deputy Commissioner shall pass an order setting aside the sale and shall repay to the purchaser the purchase money so far as it has been deposited, together with the 5 per centum deposited by the applicant; provided that if more persons than one have made deposits and applied under this section, the application of the first depositor to the officer authorised to set aside the sale shall be accepted.

(3) If a person applies, under section 184, to set aside the sale of immovable property, he shall not, unless he withdraws that application, be entitled to make or prosecute an application under this section.]

Application to set aside sale.

184. At any time within thirty days from the date of the sale of immovable property, application may be made to the Deputy Commissioner to set aside the sale on the ground of some material irregularity, or mistake, or fraud, in publishing or conducting it; but, except as is otherwise provided in the next following section, no sale shall be set aside on the ground of any such irregularity or mistake, unless the applicant proves to the satisfaction of the Deputy Commissioner that he has sustained substantial injury by reason thereof.

If the application be allowed, the Deputy Commissioner shall set aside the sale, and direct a fresh one.

1. Added by Act V of 1926.

(Chapter XI—Of the Realisation of the Land Revenue and Other Revenue Demands).

Order confirming or setting aside sale.

185. On the expiration of thirty days from the date of the sale, if no such application as is mentioned in the last preceding section has been made, or if such application has been made and rejected, the Deputy Commissioner shall make an order confirming the sale:

Provided that, if he shall have reason to think that the sale ought to be set aside notwithstanding that no such application has been made, or on grounds other than those alleged in any application which has been made and rejected, he may, after recording his reasons in writing [1][and on such conditions as he may deem proper concerning the payment of interest on the money deposited or other compensation] set aside the sale.

Refund of deposit of purchase money when sale is set aside.

186. Whenever the sale of any property is not confirmed, or is set aside, the purchaser shall be entitled to receive back his deposit or his purchase money, as the case may be.

On confirmation of sale, purchaser to be put in possession. Certificate of purchase.

187. After a sale of any occupancy or alienated holding has been confirmed in manner aforesaid, the Deputy Commissioner shall put the person declared to be the purchaser into possession of the land included in such occupancy or alienated holding, and shall cause his name to be entered in the revenue records as occupant or holder in lieu of that of the defaulter, and shall grant him a certificate to the effect that he has purchased the occupancy or alienated holding to which the certificate refers.

Application to Civil Court by purchaser resisted in taking possession.

[2][**187A.** Where any lawful purchaser of immovable property sold under section 161 or by the operation of section 193 is resisted or obstructed by any person in obtaining possession of the property, he may make an application together with the certificate of sale granted under section 187 to the Civil Court having jurisdiction over the property, complaining of such resistance or obstruction. Such Court shall proceed to investigate the matter as if the property were purchased by the applicant at a sale held by that Court.]

Bar of suit against certified purchaser.

188. The certificate shall state the name of the person declared at the time of sale to be the actual purchaser, and any suit brought in a Civil Court against the certified

1. Inserted by Act II of 1916.
2. Added by Act XVII of 1926.

purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser though by agreement the name of the certified purchaser was used, shall be dismissed.

Application of proceeds of sale.

189. When any sale of movable property under this Chapter has become absolute, and when any sale of immovable property has been confirmed, the proceeds of the sale shall be applied to defraying the expenses of the sale and to the payment of any arrears due by the defaulter at the date of the confirmation of such sale and recoverable as an arrear of land revenue;

and the surplus, if any, shall be paid to the person whose property has been sold.

Expense of sale how calculated.

The expense of the sale shall be estimated at such rates and according to such rules as may, from time to time, be sanctioned by [1][the Revenue Commissioner under the orders of Government.]

Surplus not to be paid to creditors except under order of Court.

190. The said surplus shall not, except under an order of a Civil Court, be payable to any creditor of the person whose property has been sold.

Liability of purchaser for revenue.

191. The person named in the certificate of title as purchaser of any land shall be liable for all instalments of land revenue becoming due in respect of such land subsequently to the date of sale.

Claims to attached movable property how to be disposed of.

192. If any claim shall be set up by a third person to movable property attached under the provisions of this Chapter, the Deputy Commissioner shall admit or reject his claim on a summary inquiry held after reasonable notice. If the claim be admitted wholly or partly, the property shall be dealt with accordingly. Except in so far as it is admitted, the property shall be sold and the title of the purchaser shall be good for all purposes, and the proceeds shall be disposable as hereinbefore directed.

Application of the provisions of this Chapter.

What moneys leviable under the provisions of this Chapter.

193. All sums due on account of the land revenue, all quit-rents, and forfeitures, and all cesses, profits from land, emoluments, fees, charges, penalties, fines, costs and

1. Substituted for the word 'Government' by Act XVI of 1906.

interest payable or leviable under this Act or under any Act, rule or order hereby repealed, or under any Act or Regulation for the time being in force relating to land revenue [1][and all moneys falling due to Government under any grant, lease, security bond, or contract which provides that they shall be recoverable as a revenue demand or arrear of land revenue;]

and all moneys due by any contractor for the farm of customs duties, or of any other duty or tax, or of any other item of revenue whatsoever, and all specific pecuniary penalties, to which any such contractor renders himself liable under the terms of his agreement;

[2][and all sums due from a tenant in an alienated village as contribution, in respect of any irrigation work, under a contract which provides that they shall be recoverable as arrears of land revenue;]

and also all sums declared by this Act or by any other law at the time being in force to be leviable as assessment or as a revenue demand or as an arrear of land revenue;

shall be levied under the foregoing provisions of this Chapter.

On resumption of farm no payment to contractor in advance to be admitted.

And in the event of the resumption of any such farm as is aforesaid, no person shall be entitled to credit for any payment which he may have made to the contractor in anticipation.

[3][* * *]

Recovery of arrears accruing in C. & M. station, Bangalore

[4][**193A.** It shall be lawfull for a Deputy Commissioner to proceed to recover under the provisions of this Chapter any arrear of land revenue or any sum recoverable as such, accruing in and payable to the Collector of the Civil and Military Station, Bangalore, under any law for the time being in force, as if the demand arose in his own district.

A statement of accounts certified by the Collector of the said Civil and Military Station, shall for the purposes of this Chapter, be conclusive evidence of the existence of the arrear, of the amount due, and of the person who is the defaulter.]

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1. Inserted by Act VI of 1905.
2. Inserted by Act XVII of 1939.
3. This para was repealed by Act VI of 1905.
4. Added by Act XIII of 1923.

(Chapter XII—Procedure of Revenue Officers).

Power of Government to make rules as to advances made.

194. The Government may, from time to time, prescribe rules as to advances to be made to the holders of arable land for the relief of distress, the purchase of seed or cattle, or, any other purpose not specified in [3][the Land Improvement Loans Act, 1890,] but connected with agricultural objects.

Every such advance shall, when it becomes due, be recoverable, with the interest, if any, accrued due thereon, from the person to whom such advance was made, or from any person who had become surety for the repayment thereof, as if it were an arrear of land revenue due by the person to whom the advance was made or by his surety.

CHAPTER XII.

Procedure of Revenue Officers.

Subordination of revenue officers.

195. In all official acts and proceedings, a revenue officer shall, in the absence of any express provision of law to the contrary, be subject, as to the place, time and manner of performing his duties, to the direction and control of the officer to whom he is subordinate.

Power to summon persons to give evidence and produce documents.

196. (1) Every revenue officer not lower in rank than a Deputy Amildar, or an Assistant Superintendent of Survey, in their respective departments, shall have power to summon any person whose attendance he considers necessary either to be examined as a party, or to give evidence as a witness, or to produce documents for the purposes of any enquiry which such officer is legally empowered to make.

A summons to produce documents may be for the production of certain specified documents, or for the production of all documents of a certain description in the possession of the person summoned.

(2) Any person so summoned shall be bound to attend either in person or by an authorized agent as directed in the summons, and, when the summons directs the production of a document or thing, to cause its production.

Any person summoned merely to produce a document or other thing shall be deemed to have complied with the

3. Substituted for "the Land Improvment Act, 1871" by Act IV of 1890.

summons by causing the production of such document or thing instead of attending personally to produce the same.

(3) And all persons summoned to attend shall be bound to state the truth upon any subject respecting which they are examined or make statements, and to produce such documents and other things as may be required.

Witness may be examined on commission under certain circumstances.

197. When the person whose evidence may be required is unable from sickness or infirmity to attend before the officer issuing the summons, or is a person whom, by reason of rank or sex, it may not be proper to summon, the officer issuing the summons may, of his own motion or on the application of the party whose evidence is desired, dispense with the appearance of such person, and order him to be examined by a subordinate deputed by such officer for the purpose.

Summons to be in writing, signed and sealed.

198. Every summons shall be in writing, in duplicate, and shall state the purpose for which it is issued, and shall be signed by the officer issuing it, and, if he have a seal, shall also bear his seal; it shall require the person summoned to appear before the said officer at a stated time and place, and shall specify whether his attendance is required for the purpose of giving evidence or to produce a document, or for both purposes.

How to be served.

It shall be served by tendering or delivering a copy of it to the person summoned, or, if he cannot be found by leaving a copy of it with some adult member of his family residing with him, or by affixing a copy of it to some conspicuous part of his usual residence.

Service in district other than that of issue.

If his usual residence be in another district, the summons may be sent by post to the Deputy Commissioner of that district, who shall cause it to be served in accordance with the preceding clause of this section.

Mode of serving notice.

199. Every notice under this Act, unless it is otherwise expressly provided, shall be served either by tendering or delivering a copy thereof to the person on whom it is to be served, or to his agent, if he have any, or by affixing a copy thereof to some conspicuous place on the land, if any, to which such notice refers.

No such notice shall be deemed void on account of any error in the name or designation of any person referred to

therein, unless when such error has produced substantial injustice.

Procedure for procuring attendance of witnesses.

200. In any formal or summary inquiry, if any party desires the attendance of witnesses, he shall follow the procedure prescribed by the Code of Civil Procedure, section 160.

Formal Inquiry.

Mode of taking evidence in formal inquiries.

201. In all formal inquiries, the evidence shall be taken down in full, in writing, in Kanarese, by, or in the presence and hearing and under the personal superintendence and direction of, the officer making the investigation or inquiry, and shall be signed by him.

In cases in which the evidence is not taken down in full in writing by the officer making the inquiry, he shall, as the examination of each witness proceeds, make a memorandum of the substance of what such witness deposes, and such memorandum shall be written and signed by such officer with his own hand, and shall form part of the record.

If such officer is prevented from making a memorandum as above required, he shall record the reason of his inability to do so.

Taking evidence given in English. Translation to be on record.

When the evidence is given in English, such officer may take it down in that language with his own hand, and an authenticated translation of the same in Kanarese shall be made and shall form part of the record.

Writing and explanation of decisions.

202. Every decision, after a formal inquiry, shall be written by the officer passing the same in his own handwriting, and shall contain a full statement of the grounds on which it is passed.

Summary Inquiry.

Summary inquiries, how to be conducted.

203. In summary inquiries, the presiding officer shall himself, as any such inquiry proceeds, record a minute of the proceedings in his own hand in English or in Kanarese, embracing the material averments made by the parties interested, the material parts of the evidence, the decision and the reasons for the same:

Proviso.

Provided that it shall at any time be lawful for such officer to conduct an inquiry directed by this Act to be summary under all or any of the rules applicable to a formal inquiry, if he deems fit.

(Chapter XII—Procedure of Revenue Officers).

Formal and summary inquiries to be deemed judicial proceedings.

204. A formal or summary inquiry under this Act shall be deemed to be a "judicial proceeding" within the meaning of sections 193, 219, and 228 of the Indian Penal Code, and the office of any authority holding a formal or summary inquiry shall be deemed a Civil Court for the purposes of such inquiry.

Hearing and decisions. Notices to parties.

Every hearing and decision, whether in a formal or summary inquiry, shall be in public, and the parties or their authorized agents shall have due notice to attend.

Ordinary inquiries how to be conducted.

205. An inquiry which this Act does not require to be either formal or summary, or which any revenue officer may, on any occasion, deem to be necessary to make, in the execution of his lawful duties, shall be conducted according to such rules applicable thereto, whether general or special, as may have been prescribed by the Government, or an authority superior to the officer conducting such inquiry, and, except in so far as controlled by such rules, according to the discretion of the officer in such way as may seem best calculated for the ascertainment of all essential facts and the furtherance of the public good.

Copies and translation, etc., how to be obtained.

206. In all cases in which a formal or summary inquiry is made, authenticated copies and translations of decisions, orders and the reasons therefor, and of exhibits, shall be furnished to the parties, and original documents used as evidence shall be restored to the persons who produced them or to persons claiming under them, on due application being made for the same, subject to such charges for copying, etc., as may, from time to time, be authorized by Government.

Arrest of defaulter to be made upon warrant.

207. Whenever it is provided by this Act that a defaulter or any other person may be arrested, such arrest shall be made upon a warrant issued by any officer competent to direct such person's arrest.

Power of revenue officer to enter upon any land or premises for purpose of measurement, etc.

208. It shall be lawful for any revenue officer, at any time, from time to time, to enter, when necessary, for the purposes of measurement, fixing, or inspecting boundaries, classification of soil, or assessment, or for any other purpose connected with the lawful exercise of the office

under the provisions of this Act, or of any other law for the time being in force relating to land revenue, any lands or premises, whether belonging to Government or private individuals, and whether fully assessed to the land revenue or partially or wholly exempt from the same:

Proviso,

Provided always that no building used as a human dwelling shall be entered, unless with the consent of the occupier thereof, without a notice having been served at the said building not less than seven days before such entry, and provided also that, in the cases of buildings of all descriptions, due regard shall be paid to the social and religious prejudices of the occupiers.

Deputy commissioner how to proceed in order to evict any person wrongfully in possession of land.

209. Whenever it is provided by this Act, or by any other law for the time being in force, that the Deputy Commissioner may, or shall, evict any person wrongfully in possession of land, such eviction shall be made in the following manner, *viz.*,—

by serving a notice on person or persons in possession requiring them within such time as may appear reasonable after receipt of the said notice to vacate the land; and,

if such notice is not obeyed, by removing, or deputing a subordinate to remove, any person who may refuse to vacate the same; and,

if the officer removing any such person shall be resisted or obstructed by any person, the Deputy Commissioner shall hold a summary inquiry into the facts of the case, and if satisfied that the resistance or obstruction was without any just cause, and that such resistance and obstruction still continue, may without prejudice to any proceedings to which such person may be liable under any law for the time being in force for the punishment of such resistance or obstruction, issue a warrant for the arrest of the said person and, on his appearance, commit him to close custody in the office of the Deputy Commissioner or any Amildar or Deputy Amildar, or send him with a warrant, in the form of Schedule H, for imprisonment in the civil jail of the district for such period not exceeding thirty days, as may be necessary to prevent the continuance of such obstruction or resistance.

CHAPTER XIII.

APPEALS AND REVISION.

Appeal to lie from any order passed by a revenue officer to his superior.

210. (1) In the absence of any express provision of this Act or of any law for the time being in force to the contrary, an appeal shall lie from any decision or order passed by a revenue officer under this Act, or any other law for the time being in force, to that officer's immediate superior authority, whether such decision or order may itself have been passed on appeal from a subordinate officer's decision or order or not.

[1][(1A) Where Government have issued a commission to any holder of alienated lands under section 99, an appeal shall lie from any decision or order, passed by such holder in exercise of the powers conferred upon him—

(i) to the Assistant Commissioner of the Sub-Division in which the alienated land is situate, when the holder exercises the powers of an Amildar, and

(ii) to the Deputy Commissioner of the District when the holder exercises the powers of the Deputy Commissioner.]

Appeal from Revenue Commissiner's appellate decisions to be limited to certain points.

[2][(2) No appeal shall lie to Government from an appellate decision or order passed by the Revenue Commissioner except on a point of law or usage having the force of law.]

Power to Government to withdraw appeals from the Revenue Commissioner.

[3][**210A.** Notwithstanding anything contained in this Act, the Government may at any stage withdraw any appeal or class of appeals pending before the Revenue Commissioner, and dispose of the same, or retransfer the same for disposal to the Revenue Commissioner.]

Period within which appeal must be brought.

211. No appeal shall be brought after the expiration of thirty days if the decision or order complained of have been passed by an officer inferior in rank to a Deputy Commissioner or a Superintendent of Survey in their respective departments, nor after the expiration of ninety days in any other case.

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1. Added by Act XVII of 1928.
2. Added by Act VI of 1906.
3. Added by Act I of 1909.

In computing the above periods, the time required to prepare a copy of the decision or order appealed against shall be excluded.

Admission of appeal after period of limitation.

212. Any appeal under this Chapter may be admitted after the period of limitation prescribed therefor, when the appellant satisfies the authority to which he appeals that he had sufficient cause for not presenting the appeal within such period.

No appeal shall lie against an order passed under this section admitting an appeal.

Provision, where last day for appeal falls on a holiday.

213. Whenever the last day of any period provided in this Chapter for the presentation of an appeal falls on a holiday recognized by Government, the day next following the close of the holiday shall be deemed to be such last day.

Copy of order to accompany petition of appeal.

214. Every petition of appeal shall be accompanied by the decision or order appealed against, or by an authenticated copy of the same.

Powers of appellate authority.

215. The appellate authority may either annul, reverse, modify or confirm the decision or order of the subordinate officer appealed against, or he may direct the subordinate officer to make such further investigation or take such additional evidence as he may think necessary, or he may himself take such additional evidence.

Power to suspend execution of order of subordinate officer.

216. In any case in which an appeal lies, the appellate authority may, pending decision of the appeal, direct the execution of the decision or order of the subordinate officer to be suspended.

Power to call for and examine the records and proceedings of subordinate officers.

217. The Government and any revenue officer not inferior in rank to a Deputy Commissioner or a Superintendent of Survey, in their respective departments, may call for and examine the record of any inquiry or the proceedings of any revenue officer subordinate to it or him, for the purpose of satisfying itself or himself as to the legality or propriety of any decision or order passed, and as to the regularity of the proceedings of such officer.

The following officers may in the same manner call for and examine the proceedings of any officer subordinate to them in any matter in which neither a formal nor a summary inquiry has been held, namely—an Assistant

Commissioner, an Amildar, a Deputy Amildar, an Assistant Superintendent of Survey and an Assistant Settlement Officer.

If, in any case, it shall appear to the Government or to such officer as aforesaid, that any decision or order or proceedings so called for should be modified, annulled or reversed, the Government or such officer may pass such order thereon as it or he deems fit. And to pass orders thereupon.

218. Whenever in this Act it is declared that a decision or order shall be final, such expression shall be deemed to mean that no appeal lies from such decision or order. Rules as to decisions or orders expressly made final.

The Government alone shall be competent to modify, annul, or reverse, any such decision or order under the provisions of the last preceding section.

CHAPTER XIV.

REVENUE JURISDICTION.

219. In this Chapter, unless there be something repugnant in the subject or context,— Interpretation clause.

"land" includes the sites of villages, towns and cities; it also includes trees, growing crops and grass, fruit upon, and juice in, trees, rights of way, ferries and fisheries; "Land."

"land revenue" means all sums and payments in money or in kind received or claimable by, or on behalf of, Government, from any person on account of land held by, or vested in, him, and any cess or rate authorized by Government under the provisions of any law for the time being in force. "Land Revenue."

220. Nothing in this Chapter shall affect any of the provisions of Act XXIII of 1871 (The Pensions Act). Saving of provisions of Pensions Act.

221. Subject to the exceptions hereinafter appearing, and except as hereinbefore expressly provided, no Civil Court shall exercise jurisdiction as to any of the following matters:— Bar of certain suits.

(*a*) claims against Government relating to any property, appertaining to the office of any hereditary officer appointed or recognized by Government or of any other village officer or servant; or

claims to perform the duties of any such officer or servant or in respect of any injury caused by exclusion from such office or service; or

suits to set aside or avoid any order relating to such office or service or such officer or servant, which may be passed by Government, or any officer duly authorised in that behalf; or

claims against Government relating to lands declared by Government, or any officer duly authorized in that behalf, to be held for any service whatsoever;

(*b*) objections—

to the amount or incidence of any assessment of land revenue authorized by Government, or to the mode of assessment, or to the principle on which such assessment is fixed; or

to the validity or effect of the notification of survey or settlement, or of any notification determining the period of settlement;

(*c*) claims connected with or arising out of any proceedings for the realization of land revenue, or, the rendering of assistance by Government, or any officer duly authorized in that behalf, to superior holders for the recovery of their dues from inferior holders; or

claims to set aside on account of irregularity, mistake or any other ground except fraud, sales for arrears of land revenue;

(*d*) claims against Government—

(1) to be entered in the revenue survey or settlement records or village papers as liable for the land revenue, or as superior holder, inferior holder, occupant or tenant; or

(2) to have any entry made in any record of a revenue survey or settlement; or

(3) to have any such entry either omitted or amended;

(*e*) the distribution of land or allotment of land revenue on partition of any estate under Bombay Act IV of 1868, or under this Act, or under any other law for the time being in force;

(*f*) claims against Government to hold land wholly or partially free from payment of land revenue; or

to receive payments charged on or payable out of the land revenue ; or

to set aside any cess or rate authorized by Government under the provisions of any law for the time being in force; or

respecting the occupation of waste or vacant land belonging to Government;

(*g*) claims regarding boundaries fixed under Bombay Act I of 1865 or under this Act, or under any other law for the time being in force ;

or to set aside any order passed by a competent officer under any such law with regard to boundary marks ;

Provided that if any person claim to hold land wholly or partially exempt from payment of land revenue under— Proviso.

(*h*) any enactment or rules having the force of law for the time being in force expressly creating an exemption not before existing in favour of an individual, or of any class of persons, or expressly confirming such an exemption on the ground of its being shown in a public record, or of its having existed for a specified term of years, or

(*i*) any written grant from the Government expressly creating or confirming such exemption, such claim shall be cognisable in the Civil Courts.

Illustrations to (*h.*)

(1) It is enacted that when a specific limit to assessment has been established, and preserved, the assessment shall not exceed such specific limit. *A* is the owner of land worth Rs. 100 for assessment. He claims to be assessed at Rs. 50 only on the strength of a course of dealing with him and his predecessors under which his land has not been more highly assessed. There is no exemption not before existing created by enactment, and *A*'s claim is not cognizable in a Civil Court.

(2) It is enacted that land revenue shall not be leviable from any land held and entered in the land register as exempt. *A* claims to hold certain land as exempt on the ground that it has been so held by him and is so entered in the land register. This is an exemption expressly confirmed by enactment on the ground of its being shown in a public record, and *A*'s claim is cognizable in a Civil Court.

(3) It is enacted that a Deputy Commissioner shall confirm existing exemptions of all lands shown in certain maps to be exempt. *A* claims exemption alleging that his land is shown in the maps to be exempt. *A*'s claim is cognizable in a Civil Court.

(4) It is enacted that assessment shall be fixed with reference to certain considerations and not with reference to others. This is not an enactment creating an exemption in favour of any individual or class, and no objection to an assessment under such an enactment is cognizable in a Civil Court.

(5) It is enacted that, in the event of the proprietory right in lands, the property of Government, being transferred to individuals, they shall be permitted to hold the lands for ever at the assessment at which they are transferred. The proprietory right in certain lands is transferred to *A* at an assessment of Rs. 100. An exemption from higher assessment not before existing is expressly created in favour of *A* by enactment, and he may seek relief in the Civil Court against over-assessment.

Saving of certain suits.

222. Nothing in the preceding section shall be held to prevent the Civil Courts from entertaining the following suits:—

(*a*) suits against Government to contest the amount claimed or paid under protest or recovered as land revenue, on the ground that such amount is in excess of the amount authorised in that behalf by Government, or that such amount had, previous to such claim, payment, or recovery, been satisfied, in whole or in part, or that the plaintiff, or the person whom he represents, is not the person liable for such amount;

(*b*) suits between private parties for the purpose of establishing any private right although it may be effected by any entry in any record of a revenue survey or settlement, or in any village papers;

(*c*) suits between superior holders and inferior holders relating to matters not otherwise expressly provided for by this Act.

And nothing in clause (*g*) of the preceding section shall be held to prevent the Civil Courts entertaining suits, other than suits against Government for possession of any land being a whole survey number or a recognized share of a survey number.

Bar of certain suits against revenue officers.

223. Revenue officers shall not be liable to be sued for damages in any Civil Court for any act *bona fide* done or ordered to be done by them as such, in pursuance of the provisions of any law for the time being in force.

If any revenue officer absconds or does not attend when called on by his official superior, and if the Deputy Commissioner of the district proceeds against him or his sureties for public money, papers or property, according to the provisions of this Act, or of any law for the time being in force, such Deputy Commissioner shall not be liable to pay damages or costs in any suit brought against him by such officer or sureties, although it appears that a part only, or no part whatever, of the sum demanded was due from the officer so absconding or failing to attend, or that he was not in possession of the papers or property demanded of him.

Punishment or prosecution of revenue officer, no bar to civil remedies.

224. Nothing in any law for the time being in force which authorizes the punishment departmentally of any revenue officer for any offence or breach of duty, or which sanctions his prosecution criminally for such offence or breach, shall be held to bar any remedy which may be had in the Civil Court against such officer.

Suits not to be entertained unless plaintiff has exhausted right of appeal.

225. No Civil Court shall entertain any suit against Government on account of any act or omission of any revenue officer, unless the plaintiff first proves that, previously to bringing his suit, he has presented all such appeals allowed by the law for the time being in force as, within the period of limitation allowed for bringing such suit, it was possible to present.

Power of Government to refer questions for decision of High Court.

226. If in the trial or investigation of any suit, claim or objection which, but for the provisions of this Chapter, might have been tried or investigated by a Civil Court, or in any appeal against orders passed in such trial or investigation, there arises any question on which the Government, whether upon its own motion, or upon the recommendation of the Deputy Commissioner, or upon the application of the party interested, desires to have the decision of the [1][High Court,] the Government may cause statement of the question to be prepared, and may refer such question for the decision of the [1][High Court.]

The [1][High Court] shall fix an early day for the hearing of the question referred, and cause notice of such day to be placed in the Court-house.

1. Substituted for the words "Chief Court," by Act XII of 1930.

The parties to the case may appear and be heard in the [1][High Court] in person, or by their Advocates or Pleaders.

The [1][High Court], when it has heard and considered the case, shall send a copy of its decision, with the reasons therefor, under the seal of the Court to the Government by which the reference was made and the case shall be disposed of conformably to such decision.

If the [1][High Court] considers that any such statement is imperfectly framed, the [1][High Court] may return it for amendment.

The costs (if any) consequent on any such reference shall be dealt with as the [1][High Court] in each case directs.

Power of Civil Judge to refer questions of jurisdiction to High Court.

227. If, in any suit instituted, or in any appeal presented, in a Civil Court, the judge doubts whether he is precluded, by this Chapter from taking cognizance of the suit or appeal, he may refer the matter to the [1][High Court.]

The [1][High Court] may order the Judge making the reference either to proceed with the case or to return the plaint.

The order of the [1][High Court] on any such reference shall be final.

Composition of Bench.

228. If the [1][High Court] consists of three or more Judges, every reference under sections 226 or 227 shall be heard by a Bench consisting of such number of Judges, not less than three, as the Chief Justice from time to time directs.

Reference of Government suits to District Judge.

229. No Munsiff, Subordinate Judge or Court of Small Causes shall receive or register a suit in which the Government or any officer of Government in his official capacity is a party; but in every such case, such Munsiff, Judge or Court shall refer the plaintiff to the District Judge in whose Court alone such suit shall be instituted.

Privileges of Government in suits defended by it.

230. Whenever any suit is brought in any District Court against Government or against any revenue officer, and the Government undertakes the defence thereof, it shall be lawful for the Government, by a certificate signed by a Secretary thereto, to require that the trial of

1. Substituted for "Chief Court" by Act XII of 1930.

any such suit shall have precedence over the trial of any other suit or other civil proceeding then pending in such Court, and the Court shall give effect to every such requirement.

The privilege conferred on the Government by this section shall *mutatis mutandis* apply to any appeal or second appeal against any decree in any such suit as is described in this section.

CHAPTER XV.

MISCELLANEOUS.

Applicability to *kayamgutta* villages of provisions relating to alienated villages.

231. All the provisions of the Act relating to alienated villages shall apply to *Kayamgutta* villages, *i.e.*, villages held on an assessment permanently fixed.

Maps and land registers and village accounts, etc., open to inspection.

232. Subject to such rules and the payment of such fees as the Government may from time to time prescribe in this behalf, all maps and survey records, and all village accounts and land registers, shall be open to the inspection of the public at reasonable hours, and certified extracts from such maps, registers and accounts, or certified copies thereof, shall be given to all persons applying for the same.

Power of Government to frame rules.

233. The Government may, from time to time, make and, from time to time, vary, or rescind, rules or orders not inconsistent with this Act—

(*a*) determining the qualifications to be required of all members of establishments appointed under section 20;

(*b*) regulating the power of fining, reducing, suspending and dismissing revenue officers under section 31:

(*c*) for the disposal of unoccupied Government lands under section 36;

(*d*) for the disposal of trees, not the property of the occupant, under section 41;

(*e*) prescribing the purposes to which land liable to the payment of land revenue may be appropriated under section 48;

(*f*) regulating the system and manner of assessing land to the land revenue under sections 50 and 111 ;

(*g*) for the disposal of forfeited occupancies or alienated holdings under section 54, and of relinquished holdings under section 71 ;

(*h*) regulating the grant of permission to occupy unoccupied land under section 58;

(*i*) fixing the maximum amount of fine leviable under section 59 when land, which has been unauthorizedly occupied, is appropriated to any non-agricultural purpose :

(*j*) for the disposal of the occupancy of alluvial land under section 61 ;

(*k*) for the administration of any survey settlement ;

(*l*) for the disposal of building sites under section 135 ;

(*m*) prescribing the mode, form and manner in which appeals under Chapter XIII of this Act shall be drawn up and presented ;

(*n*) generally for the guidance of all persons in matters connected with the enforcement of this Act, or in cases not expressly provided for therein.

Rules or orders made under any of the above clauses (*e*), (*f*), (*g*), (*h*), (*i*), (*l*) or (*n*), may be made either generally or in any particular instance.

Certain rules to be published.

234. All general rules or orders made by the Government under the last preceding section shall be published and when published shall, until cancelled or amended, have the force of law.

Power to provide for penalties.

235. It shall be lawful for the Government, in making any such general rule, to attach to the breach of it, in addition to any other consequences which would ensue from such breach, a punishment, on conviction before a Magistrate, not exceeding one month's imprisonment of either description within the meaning of the Indian Penal Code, or five hundred rupees fine, or both.

[1] **236.** *Deleted.*

Occupants in alienated or *kayamgutta* villages.

237. When a survey settlement has been introduced, under the provisions [2] * * * of any law for the time being in force, into an alienated or *kayamgutta* village, the holders of all lands to which such settlement

1. Deleted by Act XVII of 1939.
2. Certain words were omitted by Act XVII of 1939.

(*Schedule A*).

extends shall have the same rights and be affected by the same responsibilities in respect of the lands in their occupation as occupants in unalienated villages have or are affected by, under the provisions of this Act, and all the provisions of this Act, relating to occupants and registered occupants, shall be applicable, so far as may be, to them.

[1]‡ ‡ ‡

238. Nothing in this Act which applies in terms to unalienated land or to the holders of unalienated land only, shall be deemed to affect alienated land, or the rights of holders of alienated land, or of Government in respect of any such land, and no presumption shall be deemed to ariseeither in favour, or to the prejudice, of any holder of alienated land from any provision of this Act in terms relating to unalienated land only. Construction of this Act.

239. Nothing in this Act shall be deemed to affect the power of the Government to direct by law the levy of any tax, cess, or rate, on all lands under whatever title they may be held whenever and so long as the exigencies of the State may render such levy necessary. Savings of power of Government to levy tax, cess or rate.

SCHEDULE A.

(*Section* 2).

1. Notification of the Government of India No. 83, dated Simla, the 30th April 1869, introducing into the [2][whole of the State of Mysore except Bellary District] Bombay Acts I of 1865 and IV of 1868.

2. Notification of the Government of India No. 254, dated 27th August 1869, applying to the [2][whole of the State of Mysore except Bellary District] the provisions of Madras Act III of 1869.

3. Notification of the Government of India No. 123, dated the 24th June 1872, regarding the powers of Revenue Courts in the investigation of judicial cases.

4. Rules relating to recovery of rent by proprietors of *sarvamanyam jodi* and *kayamgutta* villages, published with the late Chief Commissioner's Notification at page 87 of the *Mysore Gazette*, dated 1st May 1869, as altered by the late Chief Commissioner's Notification No. 180, dated the 3rd August 1871.

5. Notification of the late Commissioner relating to the rights of raiyats of Inam villages dated 25th October 1843.

6. The late Commissioner's Circular Order No. 522-3, dated 8th June 1864.

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1. Sub-para was omitted by Act XVII of 1939.
2. See the Mysore Adaptation of Laws order, 1953.

(*Schedules B and C.*)

SCHEDULE B.

FORM OF BOND TO BE REQUIRED UNDER SECTION 22.

Whereas I, inhabitant of have been appointed to the office of and have been called upon to furnish security under the provisions of section 22 of the Mysore Land Revenue Code for the due discharge of the trusts of the said office or of any other office to which I may be hereafter appointed, and for the due account of all moneys, papers and other property which shall come into my possession or control by reason of any such office, I hereby bind myself to pay to the Government of Mysore the amount of any loss or defalcation in my accounts and to deliver up any papers or other property within such time and to such person as shall be demanded by the person at the head of the office to which I belong, such demand to be in writing and to be left at my office or place of residence, and in case of my making default therein, I bind myself to forfeit to the Government of Mysore the sum of Rupees:

Dated (Signature)

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

We hereby declare ourselves sureties for the abovesaid that he shall do and perform all that he has above undertaken to do and perform, and in case of his making default therein we hereby bind ourselves to forfeit to the Government of Mysore such sum as shall be deemed sufficient by the to cover any loss or damage which the Government may sustain by reason of such default.

Dated (Signature)

SCHEDULE C.

FORM OF WARRANT TO BE ISSUED BY THE DEPUTY COMMISSIONER UNDER SECTION 24 OR 163.

(Seal)

To

The Officer in charge of the civil jail at

Whereas *A. B.* of was on the day of 19 . ordered by to (*here state the substance of the demand made*); and whereas the said *A. B.* has neglected to comply with the said order, and it has therefore been directed, under the provisions of section 24 or 163 of the Mysore Land Revenue Code, that he be imprisoned in the Civil Jail until he obeys the said order or until he obtains his discharge under the provisions of section 24 or 27 (*or section* 163 *or* 170. *as the case may be*) of the said Act; you are hereby required to receive the said *A. B.* into the jail under your charge and to carry the aforesaid order into execution according to law.

Dated this day of 19 .

(Signature)

(Schedules D and E.)

SCHEDULE D.

FORM OF BOND TO BE REQUIRED UNDER SECTION 27, 103 OR 170.

Whereas I, have been ordered by to (*here state the nature of the demand*) and whereas I dispute the right of the said to make the said order, I hereby bind myself to file a suit within fifteen days from the date of this bond in the District Court of to contest the justice of the demand, and do agree that, in the event of a decree being passed against me, I will fulfil the same and will pay all amounts, including costs and interests, that may be due by me, or that if I fail to institute a suit as aforesaid, I will, when required, pay the above mentioned amount of Rupees (*or will deliver up the above-mentioned papers or property as the case may be,*) and in the case of my making default therein, I hereby bind myself to forfeit to the Government of Mysore the sum of rupees.

Dated (Signature)

FORM OF SECURITY TO BE SUBJOINED TO THE BOND OF THE PRINCIPAL.

We hereby declare ourselves securities for the abovesaid that he shall do and perform all that he has above undertaken to do and perform, and in case of his making default therein we hereby bind ourselves to forfeit to the Government of Mysore the sum of Rupees.

dated (Signature)

SCHEDULE E.

(*Section* 80.)

I.—FORM OF NOTICE TO BE GIVEN BY LANDLORD TO TENANT TO QUIT.

To

A. B.

I do hereby give you notice that I do intend to enter upon, and take possession of the land (*here give the description*) which you now hold as tenant under me, and you are therefore required to quit and deliver up possession of the same at the end of this current year terminating on the of 19 .

Dated this day of 19 .

(Signed) *C. D.*

II.—FORM OF NOTICE TO BE GIVEN BY TENANT TO LANDLORD OF HIS INTENTION TO QUIT.

To

C. D.

I do hereby give you notice that I shall quit and deliver up to you at the end of this current year, terminating on the of 19 , the land (*here give description*) which I hold from you.

Dated this day of 19 .

(Signed) *A. B.*

(Schedules F and G).

SCHEDULE F.

FORM OF COMMISSION TO BE ISSUED TO A HOLDER OF ALIENATED LANDS OR ALIENATED OR KAYAMGUTTA VILLAGES OR HIS AGENT UNDER SECTION 99.

(Seal)

The Government, by virtue of the power vested in it by the Mysore Land Revenue Code, is pleased to confer on you *Jahgirdar, etc., or agent etc., (as the case may be,)* power to in (or in respect of) the villages and lands specified in this commission, in the manner prescribed in section 99 of the said Act.

The villages and lands over which the power thus conferred upon you extends, are as follows :

(Here enter the description.)

The within delegated power is vested in you during the pleasure and subject to the recall of the said Government of Mysore.

(Signed)

SCHEDULE G.

(Section 137).

FORM OF SANNAD FOR BUILDING SITES.

(Seal)

THE GOVERNMENT OF MYSORE.

To

Whereas the Government of Mysore, with a view to the settlement of the land revenue and the record and preservation of proprietory and other rights connected with the soil, has, under the provisions of the Mysore Land Revenue Code, directed a survey of the lands within the—of—and ordered the necessary inquiries connected therewith to be made, this Sannad is issued under section 137 of the said Act to the effect that—

There is a certain plot of ground occupied by you in the division of the of registered No. in the map marked sheet No. and facing towards the the road leading from to— containing about square yards, and of the following shape and about the following dimensions :—

You are hereby confirmed in the occupancy of the above described ground, exempt from all land revenue (or subject to the payment of Rs. per annum to the land revenue).

The terms of your tenure are such that your occupancy is both transferable, and heritable, and will be continued by the Government of Mysore without any objection or question as to title, to whosoever shall, from time to time, be its lawful holder (subject only to the condition of the payment annually of the above land revenue according to the provisions of the Mysore Land Revenue Code or of any other law for the time being in force, and to the liability to have the said rate of

(Schedules H and I).

assessment revised at the expiration of a term of years reckoned from the and thereafter at successive periods of years in perpetuity, and to the necessity for compliance with the provisions of the law, from time to time, in force as to the time and manner of payment of the said assessment and to the liability of forfeiture of the said occupancy and of all rights and interests connected therewith in case of your failure to pay the said assessment as required by law).

This Sannad is executed on behalf of the Government of Mysore by me this day of one thousand nine hundred and A. D.

(Signed.)

SCHEDULE H.

FORM OF WARRANT TO BE ISSUED BY THE DEPUTY COMMISSIONER UNDER SECTION 209.

(Seal)

To

The Officer in charge of Civil Jail at

Whereas A. B. of has resisted (or obstructed) C. D. in removing E. F. (or himself, that is the said A. B.) from certain land in the village of in the Taluk, and whereas it is necessary, in order to prevent the continuance of such obstruction (or resistance), to commit the said A. B. to close custody; You are hereby required, under the provisions of section 209 of the Mysore Land Revenue Code to receive the said A. B. into the jail under your charge, and there to keep him in safe custody for days.

Dated this day of 19 .

(Signature)

SCHEDULE I.

(Repealed by section 14 of Act VI of 1906.)

MYSORE ACT NO. III OF 1890.

THE MEASURES OF LENGTH ACT, 1890.

(Passed on the 10th day of November 1890.)

An Act to declare the Imperial Standard Yard for the United Kingdom to be the legal standard Measure of Length in the territories of Mysore.

WHEREAS it is expedient to declare the imperial standard yard for the United Kingdom to be the legal standard measure of length in the territories of Mysore ; His Highness the Maharaja is pleased to enact as follows :—

Title.

1. (1) This Act may be called the "Measures of Length Act, 1890 ".

Extent and Commencement.

(2) It extends to the whole of the territories of Mysore ; and

(3) It shall come into force on such date as the Government of Mysore may, by notification in the official Gazette, appoint in this behalf.

Standard yard.

2. The imperial standard yard for the United Kingdom shall be the legal standard measure of length in the territories of Mysore and be called the standard yard.

Measure for determining length of standard yard.

3. A copy, approved by His Highness the Maharaja, of the imperial standard for determining the length of the imperial standard yard for the United Kingdom, shall be kept in such place within the limits of the Town of Mysore as His Highness the Maharaja may prescribe and shall be the standard for determining the length of the standard yard.

Standard foot and inch.

4. One-third part of the standard yard shall be called a standard foot, and one thirty-sixth part of such a yard shall be called a standard inch.

Presumption in favour of accuracy of certified measures.

5. Any measure having stamped thereon or affixed thereto a certificate purporting to be made under the authority of the Government of Mysore and stating that the measure is of the length of the standard yard or that a measure marked thereon as a foot or inch is of the length of the standard foot or standard inch as the case may be, shall, when produced before any court by any public servant having charge of the measure in pursuance of any

direction published in the official Gazette, by order of the Government of Mysore, or by any person acting under the general or special authority of such a public servant, be deemed to be correct until its inaccuracy is proved.

Inspection of certified measures by the public.

6. A public servant having in pursuance of such a direction charge of such a measure as is mentioned in the last foregoing section shall allow any person to inspect it free of charge at all reasonable times and to compare therewith or with any measure marked thereon any measure which such person may have in his possession.

Certified measures to be kept by the District Magistrate.

7. There shall be kept by the District Magistrate of each District such certified measures of the standard yard, standard foot and standard inch as are mentioned in section 5.

THE LAND IMPROVEMENT LOANS ACT, 1890.

Arrangement of sections.

1. (1) Short Title.
   (2) Local extent.
   (3) Commencement.
2. Acts XXVI of 1871 and XXI of 1876 repealed.
3. "Deputy Commissioner" defined.
4. Purposes for which loans may be granted under this Act.
5. Mode of dealing with applications for loans.
6. Period for repayment of loans.
7. Recovery of loans.
8. Order granting loan conclusive on certain points.
9. Liability of joint borrowers as among themselves.
10. Power to make rules.
11. Exemption of improvements from assessment to land revenue.
12. [Repealed].

MYSORE ACT No. IV OF 1890.

THE LAND IMPROVEMENT LOANS ACT, 1890.

(*As amended by Acts V of* 1899, *I of* 1901 *and I of* 1903.)

(PASSED ON THE 10TH DAY OF NOVEMBER 1890.)

An Act to consolidate and amend the law relating to Loans of Money by the Government of Mysore for Agricultural Improvements.

WHEREAS it is expedient to consolidate and amend the law relating to loans of money by the Government of Mysore for agricultural improvements; His Highness the Maharaja is pleased to enact as follows :—

Short title.

1. (1) This Act may be called the "Land Improvement Loans Act, 1890."

Local extent.

(2) It extends to the [1][whole of the State of Mysore except Bellary District] ; and

Commencement.

[2](3) It shall come into force on the date of the passing thereof.

Acts XXVI of 1871 and XXI of 1876 repealed.

2. (1) The Land Improvement Act, 1871, and Act XXI of 1876 (An Act to amend the Land Improvement Act 1871), shall, except as regards the recovery of advances made before this Act comes into force and costs incurred by the Government of Mysore in respect of such advances, be repealed.

(2) When, in any Act or notification, passed or issued before this Act comes into force, reference is made to either of those Acts, the reference shall, so far as may be practicable, be read as applying to this Act or the corresponding part of this Act.

"Deputy Commissioner" defined.

3. In this Act "Deputy Commissioner" includes any officer empowered by the Government of Mysore by name or by virtue of his office to discharge the functions of a Deputy Commissioner under this Act.

Purposes for which loans may be granted under this Act.

4. Subject to such rules as may be made under section 10, loans may be granted under this Act, by such officer as may, from time to time, be empowered in this behalf by the Government of Mysore, for the purpose of

1. *See* the Mysore Adaptation of Laws Order, 1958.
2. This clause was substituted for the original clause (3) by Act I of 1901.

making any improvement, to any person having a right to make that improvement, or, with the consent of that person, to any other person.

"Improvement" means any work which adds to the letting value of land, and includes the following, namely :—

(*a*) the construction and repair of wells, tanks and other works for the storage, supply or distribution of water for the purposes of agriculture, or for the use of men and cattle employed in agriculture;

(*b*) the preparation of land for irrigation or cultivation;

(*c*) the drainage, reclamation from rivers or other waters, or protection from floods or from erosion or other damage by water, of land used for agricultural purposes or waste-land which is culturable;

(*d*) the reclamation, clearance, enclosure or permanent improvement of land for agricultural purposes;

(*e*) the renewal or re-construction of any of the foregoing works or alterations therein or additions thereto; and

(*f*) such other works as the Government of Mysore may, from time to time, by notification in the official Gazette, declare to be improvements for the purposes of this Act.

Mode of dealing with applications for loans.

5. (1) When an application for a loan is made under this Act, the officer to whom the application is made may, if it is, in his opinion, expedient that public notice be given of the application, publish a notice, in such manner as the Government of Mysore may, from time to time, direct, calling upon all persons objecting to the loan to appear before him at a time and place fixed therein and submit their objections.

(2) The officer shall consider every objection submitted under sub-section (1), and make an order in writing either admitting or overruling it :

Provided that, when the question raised by an objection is in the opinion of the officer, one of such a nature that it cannot be satisfactorily decided except by a Civil Court, he shall postpone his proceedings on the application until the question has been so decided.

Period for repayment of loans.

6. (1) Every loan granted under this Act shall be made repayable in such manner and at such time as the Government may prescribe, or by instalments (in the

form of an annuity or otherwise), within such period from the date of the actual advance of the loan, or when the loan is advanced in instalments, [1][from the date of the advance of the last instalment actually paid,] as may, from time to time be fixed by the rules made under this Act.

(2) The period fixed as aforesaid shall not ordinarily exceed thirty-five years.

(3) The Government of Mysore, in making the rules fixing the period, shall, in considering whether the period should extend to thirty-five years or whether it should extend beyond thirty-five years, have regard to the durability of the work for the purpose of which the loan is granted, and to the expediency of the cost of the work being paid by the generation of persons who will immediately benefit by the work.

Recovery of loans.

7. (1) Subject to such rules as may be made under section 10, all loans granted under this Act, all interest (if any) chargeable thereon, and costs (if any) incurred in making the same, shall, when they become due, be recoverable by the Deputy Commissioner in all or any of the following modes, namely:—

(*a*) from the borrower as if they were arrears of land revenue due by him;

(*b*) from his surety (if any) as if they were arrears of land revenue due by him;

(*c*) out of the land for the benefit of which the loan has been granted, as if they were arrears of land revenue due in respect of that land;

(*d*) out of the property comprised in the collateral security (if any)—according to the procedure for the realization of land revenue by the sale of immoveable property other than the land on which that revenue is due:

Provided that no proceeding in respect of any land under clause (*c*) shall affect any interest in that land which existed before the date of the order granting the loan, other than the interest of the borrower, and of mortgagees of, or persons having charges on, that interest, and, where the loan is granted under section 4 with the consent of another person, the interest of that person, and

1. These words in section 6, sub-section (1), were substituted for the original words by Act V of 1899, section 2.

of mortgagees of, or persons having charges on, that interest.

(2) When any sum due on account of any such loan, interest or costs is paid to the Deputy Commissioner by a surety or an owner of property comprised in any collateral security or is recovered under sub-section (1) by the Deputy Commissioner from a surety or out of any such property, the Deputy Commissioner shall, on the application of the surety or the owner of that property (as the case may be), recover that sum on his behalf from the borrower, or out of the land for the benefit of which the loan has been granted, in manner provided by sub-section (1).

(3) It shall be in the discretion of a Deputy Commissioner acting under this section to determine the order in which he will resort to the various modes of recovery permitted by it.

Order granting loan conclusive on certain points.

8. A written order under the hand of an officer empowered to make loans under this Act granting a loan to, or with the consent of, a person mentioned therein, for the purpose of carrying out a work described therein, for the benefit of land specified therein, shall for the purposes of this Act, be conclusive evidence—

(*a*) that the work described is an improvement within the meaning of this Act;

(*b*) that the person mentioned had at the date of the order a right to make such an improvement; and

(*c*) that the improvement is one benefiting the land specified.

Liability of joint borrowers as among themselves.

9. When a loan is made under this Act to the members of a village community or to any other persons on such terms that all of them are jointly and severally bound to the Government of Mysore for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount which as among themselves each is bound to contribute is entered upon the order granting the loan and is signed by each of them and by the officer making the order, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of those persons is bound to contribute.

Power to make rules.

10. The Government of Mysore may, from time to time, by notification in the official Gazette, make rules

consistent with this Act to provide for the following matters, namely;

(*a*) the manner of making applications for loans;
(*b*) the officers by whom loans may be granted;
(*c*) the manner of conducting inquiries relative to applications for loans, and the powers to be exercised by officers conducting those inquiries;
(*d*) the nature of the security to be taken for the due application and repayment of the money, the rate of interest at which, and the conditions under which, loans may be granted, and the manner and time of granting loans;
(*e*) the inspection of works for which loans have been granted;
(*f*) the instalments by which, and the mode in which, loans, the interest to be charged on them and the costs incurred in the making thereof shall be paid;
(*g*) the manner of keeping and auditing the accounts of the expenditure of loans and of the payments made in respect of the same; and
(*h*) all other matters pertaining to the working of the Act.

Exemption of improvements from assessment to land revenue.

11. When land is improved with the aid of a loan granted under this Act, the increase in value derived from the improvement shall not be taken into account in revising the assessment of land revenue on the land.

Provided as follows:—

(1) where the improvement consists of the reclamation of waste land, or of the irrigation of land assessed at un-irrigated rates, the increase may be so taken into account after the expiration of such period as may be fixed by rule to be framed by the Government of Mysore;
(2) nothing in this section shall entitle any person to call in question any assessment of land revenue otherwise than as it might have been called in question if this Act had not been passed.

12. *Repealed by Act 1 of 1903.*

MYSORE ACT No. I OF 1893.

[1] THE MYSORE PUBLIC ACCOUNTANTS' DEFAULT ACT, 1893.

(As amended by Act XII of 1918.)

(Passed on the 18th Day of September 1893.)

An Act for avoiding loss by the default of Public Accountants.

Preamble. For better avoidance of loss through the default of public accountants, His Highness the Maharaja is pleased to enact as follows:—

Public accountants to give security.

1. Every public accountant shall give security for the due discharge of the trusts of his office, and for the due account of all moneys which shall come into his possession or control, by reason of his office.

Amount and kind of security, and with what sureties.

2. In default of any Act having special reference to the office of any public accountant, the security given shall be of such amount and kind, real or personal, or both, and with such sureties (regard being had to the nature of the office), as shall be required by any rules made or to be made from time to time, by the authority by which each public accountant is appointed to his office, subject, save in the case of Post Office employees, to the approval of the Government of Mysore.

"Public accountant" defined.

3. Every person is a public accountant within the meaning of this Act, who, by reason of any office held by him in the service of the Government of Mysore, is entrusted with the receipt, custody or control of any moneys or securities for money, or the management of any lands belonging to the said Government, or as official Assignee or Trustee, or in any other official capacity, with the receipt, custody or control of any moneys or securities for money, or the management of any lands belonging to any other person or persons. Every Post Office Employee [2][who is working or who has given security] in the Territories of Mysore shall, for the purposes of this Act, be deemed to be a public accountant.

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1. The short title was given by Mysore Act VIII of 1949.
2. Inserted by Act XII of 1918.

Prosecution of accountants and sureties.

4. The person or persons at the head of the office to which any public accountant belongs may proceed against any such public accountant and his sureties for any loss or defalcation in his accounts as if the amount thereof were an arrear of land revenue due to the Government of Mysore.

Enactments applied to proceedings by and against accountants.

5. All Acts now or hereafter to be in force for the recovery of arrears of land revenue due to the Government of Mysore, and for recovery of damages by any person wrongfully proceeded against for any such arrear, shall apply, with such changes in the forms of procedure as are necessary to make them applicable to the case, to the proceedings against and by such public accountant.

MYSORE ACT No. V OF 1894.

THE MYSORE PRISONERS' TESTIMONY ACT, 1894.

Arrangement of sections.

PREAMBLE.

Sections.

1. Short title, extent and commencement.
2. Criminal Courts may make orders under Act.
3. Civil Courts may make orders under Act.
4. Court to countersign orders.
Statement of facts necessitating orders.
5. Order to be transmitted through Magistrate of District in which person is confined.
6. Order by High Court for removal of person confined more than 100 miles from place where his evidence is required.
7. Prisoner to be brought up.
8. Power to Government to exempt certain prisoners from operation of Act.
9. When jailor may disobey orders.
10. Commission for examination of prisoners.
11. Commission how to be directed.
12. Process how served on prisoners.
13. Process served to be transmitted at prisoner's request.
14. Deposit of costs.
15. Power to make rules.
16. Publication of rules.
17. Power to declare who shall be deemed "officer in charge of jail."

Schedule A.

Schedule B.

MYSORE ACT No. V OF 1894.

THE MYSORE PRISONERS' TESTIMONY ACT, 1894.

(PASSED ON THE 22ND DAY OF JULY 1894.)

An Act to provide facilities for obtaining the Evidence and Appearance of Prisoners and for service of process upon them.

Preamble.

WHEREAS it is expedient to provide facilities for obtaining the evidence and appearance in Court of prisoners and for service of process upon them; His Highness the Maharaja is pleased to enact as follows:—

Short title, extent and commencement.

1. This Act may be cited "The Mysore Prisoners' Testimony Act, 1894."

It shall extend to the [1][whole of the State of Mysore except Bellary District] and it shall come into force on the 1st day of August 1894.

Criminal Courts may make orders under Act.

2. Any Criminal Court not inferior to the Court of a Magistrate of the second class may, in its discretion, if it appear that the testimony of any person confined in any jail is material in any matter depending in such Criminal Court, or if a charge of an offence against such person is made or pending, make an order in the form in Schedule A or B (as the case may be) to this Act, annexed, directed to the officer in charge of the said jail.

Civil Courts may make orders under Act.

3. Any Civil Court may, in its discretion, if it appear that the testimony of any person confined in any jail is material in any matter depending in such Civil Court, make an order in the form in the said Schedule A, directed to the officer in charge of the said jail.

Court to countersign orders.

4. When such order is made in any civil matter pending in a Court subordinate to the Court of the District Judge, or in any Court of Small Causes, it shall not be forwarded to the officer to whom it is directed, or acted upon by him, until the same shall have been submitted to, and countersigned by, such Judge or the District Judge within the local limits of whose jurisdiction such Court of Small Causes is situate.

Statement of facts necessitating orders.

Every order so submitted shall be accompanied by a statement under the hand of the Judge of the facts which, in his opinion, render such order necessary, and the

1. See the Mysore Adaptation of Laws order, 1963.

District Judge may, after considering such statement, decline to countersign the order.

Order to be transmitted through Magistrate of District in which person is confined.

5. When any person for whose attendance an order as hereinbefore mentioned shall be made is confined in any district other than that in which the Court making or countersigning the order is situate, the order shall be sent by the Court by which it shall have been made or countersigned to the Magistrate of the district or division of a district in which the said person is confined, and such Magistrate shall cause it to be delivered to the officer in charge of the jail in which such person is confined.

Order by High Court for removal of person confined more than 100 miles from place where his evidence is required.

6. In any case in which a person is confined in a jail more than one hundred miles distant from the place where any Court subordinate to the High Court in which his evidence is required is held, the Judge or the presiding officer of the Court in which the evidence is so required shall, if he think it expedient that such person should be removed under this Act for the purpose of giving evidence in such Court, apply in writing to the High Court, and such High Court may, if it think fit, make an order in the form in the said Schedule A, directed to the officer in charge of the said jail.

The High Court making the order shall send it to the Magistrate of the district or division of a district in which the person named therein is confined, and such Magistrate shall cause the order to be delivered to the officer in charge of the jail in which such person is confined.

Prisoner to be brought up.

7. Upon delivery of any order under this Act to the officer in charge of the jail in which the person named therein is confined, such officer shall cause him to be taken to the Court in which his attendance is required so as to be present in such Court at the time in such order mentioned; and shall cause him to be detained in custody in or near the Court until he shall have been examined or until the Judge or presiding officer of such Court shall authorize him to be taken back to the jail in which he was confined.

Power to Government to exempt certain prisoners from operation of Act.

8. The Government of Mysore may, from time to time, by notification in the official Gazette, direct that any person or any class of persons shall not be removed from the jail in which he or they may be confined; and thereupon, and so long as such notification remains in force, the provisions of this Act, other than those contained in sections 10 and 11, shall not apply to such person or class of persons.

When jailor may disobey orders.

9. When any person named in any order made under sections 2, 3, or 6 appears to be from sickness or other infirmity unfit to be removed, the officer in charge of the jail in which he is confined shall apply to the Magistrate of the district or division of a district in which such jail is situate, and if such Magistrate shall, by writing under his hand, declare himself to be of opinion that such person is from infirmity unfit to be removed;

or when any person named in any such order is under committal for trial;

or under a remand pending a trial or pending a preliminary investigation;

or when any such person is in custody for a period which would expire before the expiration of the time required for removing him under this Act and for taking him back to the jail in which he is confined;

then and in every such case, the officer in charge of the jail shall abstain from obeying such order, and shall send to the Court from which the order has been issued, a statement of his reason for not obeying the same:

Provided that the said officer shall not so abstain when the order has been made under section 2, and the person named in the order is confined under committal for trial or under a remand pending trial or pending a preliminary investigation, and does not appear to be from sickness or other infirmity unfit to be removed, and the place where his evidence is required is not more than five miles distant from the jail in which he is confined.

Commission for examination of prisoners.

10. Whenever it shall appear to any Civil Court that the evidence of a person confined in any jail, who for any of the causes mentioned in section 8 or 9 cannot be brought up before it, is material in any matter depending before such Court,

and whenever it shall appear to any such Court that the evidence of a person confined in any jail, situated more than 10 miles distant from the place at which such Court is held, is material in any such matter,

and in any case in which the District Judge shall, under section 4, have declined to countersign the order for removal,

the Court may, if it thinks fit, issue a commission, under the provisions of the Code of Civil Procedure, for the examination of such person in the jail in which he is confined.

Commission how to be directed.

11. Every commission issued under section 10 shall be directed to the District Court of the District wherein the jail in which such person is confined is situate; and such Court shall commit the execution of the commission to the officer in charge of such jail, or to such other person as the Court thinks fit.

Process how served on prisoners.

12. When any process directed to any person confined in any jail is issued from any Court, the same may be served by exhibiting to the officer in charge of such jail or prison the original of such process, and by depositing within him a copy thereof.

Process served to be transmitted at prisoner's request.

13. Every officer in charge of a jail upon whom any such service as is mentioned in section 12 shall be made, shall, as soon as may be, cause the copy of the process so deposited with him to be shown and explained to the prisoner to whom it is directed, and shall thereupon endorse upon such process a certificate signed by him that the prisoner to whom the process is directed is a prisoner in the jail under his charge, and that he has received a copy thereof.

Such certificate shall be sufficient *prima facie* evidence of the service of such process; and if the prisoner requests that the said copy be sent to any other person, and provides the cost of so sending it, the said officer shall cause the same to be so sent through the post office by registered letter.

Deposit of costs.

14. No order in any civil matter shall be made by a Court under any of the provisions hereinbefore contained until the amount of the costs and charges of the execution of such order (to be determined by the Court) is deposited in such Court:

Provided that, if upon any application for such order, it appears to the Court to which the application is made that the applicant has not sufficient means to meet the said costs and charges, the Court may pay the same out of any fund applicable to the contingent expenses of such Court, and every sum so expended may be recovered by Government from any person ordered by the Court to pay the same, as if it were costs of suit recoverable under the Code of Civil Procedure.

Power to make rules.

15. It shall be lawful for the Government of Mysore to make rules consistent with this Act—

(1) for regulating the escort of prisoners to and from the Court in which their presence is required;

(*Schedules A and B.*)

(2) for regulating the amount to be allowed for the costs and charges of such escort ; and

(3) for the guidance of officers in all other matters connected with the enforcement of this Act ;

and from time to time to alter and add to the rules so made.

Publication of rules.

16. All such rules, alterations and additions shall be published in the official Gazette, and shall, from the date of such publication, be deemed to have the force of law.

Power to declare who shall be deemed "officer in charge of jail."

17. The Government of Mysore may also declare in each case what officer shall, for the purposes of this Act, be deemed to be "the officer in charge of the jail."

SCHEDULE A.

Court of

To the officer in charge of the (*state name of jail.*)

You are hereby required to have the body of , now a prisoner in , under safe and sure conduct before the at on the day of next by of the clock in the forenoon of the same day, there to give testimony in a case now pending before [*or* in a certain charge or prosecution now pending before against *or as the case may be*], and after the said shall then and there have given his testimony before the said or the said shall dispense with his further attendance, cause him to be conveyed under safe and sure conduct back to the jail.

day of

A. B.

(*Countersigned*) C. D.

SCHEDULE B.

Court of

To the officer in charge of the (*state name of jail.*)

You are hereby required to have the body of , now a prisoner in , under safe and sure conduct before the at on the day of next by of the clock in the forenoon of the same day, there to answer a charge now pending before and, after such charge shall have been disposed of or the said shall dispense with his further attendance, cause him to be conveyed under safe and sure conduct back to the said jail.

day of

A. B.

(*Countersigned*) C. D.

THE MYSORE LAND ACQUISITION ACT, 1894.

Arrangement of sections.

PART I.

PRELIMINARY.

Sections.

1. Short title, extent and commencement.
2. Repeal.
3. Definitions.

PART II.

ACQUISITION.

Preliminary Investigation.

4. Publication of preliminary notification and powers of officers thereupon.
5. Payment for damage.
5-A. Hearing of objections.

Declaration of intended Acquisition.

6. Declaration that land is required for a public purpose.
7. After declaration, Deputy Commissioner to take order for acquisition.
8. Land to be marked out, measured and planned.
9. Notice to persons interested.
10. Power to require and enforce the making of statements as to names and interests.

Enquiry into measurements, value and claims and Award by the Deputy Commissioner.

11. Enquiry and award by Deputy Commissioner.
12. Award of Deputy Commissioner when to be final.
13. Adjournment of enquiry.
14. Power to summon and enforce attendance of witnesses and production of documents.
15. Matters to be considered and neglected.

Taking Possession.

16. Power to take possession.
17. Special powers in cases of urgency.

PART III.

REFERENCE TO COURT AND PROCEDURE THEREON.

Sections.

18. Reference to Court.
19. Deputy Commissioner's statement to the Court.
20. Service of notice.
21. Restriction on scope of proceedings.
22. Proceedings to be in open Court.
23. Matters to be considered in determining compensation.
24. Matters to be neglected in determining compensation.
25. Rules as to amount of compensation.
26. Form of awards.
27. Co-ts.
28. Deputy Commissioner may be directed to pay interest on excess compensation.

PART IV.

APPORTIONMENT OF COMPENSATION.

29. Particulars of apportionment to be specified.
30. Dispute as to apportionment.

PART V.

PAYMENT.

31. Payment of compensation or deposit of the same in Court.
32. Investment of money deposited in respect of lands belonging to persons incompetent to alienate.
33. Investment of money deposited in other cases.
34. Payment of interest.

PART VI.

TEMPORARY OCCUPATION OF LAND.

35. Temporary occupation of waste or arable land. Procedure when difference as to compensation exists.
36. Power to enter and take possession, and compensation on restoration.
37. Difference as to condition of land.

PART VII.

ACQUISITION OF LAND FOR COMPANIES.

38. Company may be authorized to enter and survey.
39. Previous consent of Government of Mysore and execution of agreement necessary.
40. Previous enquiry.
41. Agreement with Government of Mysore.
42. Publication of agreement.
43. Sections 39 to 42 not to apply where Government bound to provide land for companies.
44. How such obligation may be proved.

PART VIII.

MISCELLANEOUS.

Sections.

45. Service of notices.
46. Penalty for obstructing acquisition of land.
47. Magistrate to enforce surrender.
48. Completion of acquisition not compulsory, but compensation to be awarded when not completed.
49. Acquisition of part of house or building.
50. Acquisition of land at cost of a local authority or company.
51. Exemption from stamp-duty and fees.
52. Notice in case of suits for anything done in pursuance of Act.
53. Code of Civil Procedure to apply to proceedings before Court.
54. Appeals in proceedings before Court.
55. Power to make rules.

MYSORE ACT No. VII OF 1894.

THE MYSORE LAND ACQUISITION ACT, 1894.

(As amended by Acts XI of 1916, I of 1927, VII of 1932 and III of 1941.)

(PASSED ON THE 25TH DAY OF SEPTEMBER 1894.)

An Act to amend the law for the acquisition of land for public purposes and for Companies.

WHEREAS it is expedient to amend the law for the acquisition of land needed for public purposes and for Companies and for determining the amount of compensation to be made on account of such acquisition ; His Highness the Maharaja is pleased to enact as follows :— Preamble.

PART I.

PRELIMINARY.

1. (1) This Act may be called the Mysore Land Acquisition Act, 1894. Short title, extent and commencement.

(2) It extends to the [1][whole of the State of Mysore except Bellary District]; and

(3) It shall come into force at once.

2. (1) The Land Acquisition Act, 1870, is hereby repealed. Repeal.

(2) But all proceedings commenced, officers appointed or authorised, agreements published and rules made under the said Land Acquisition Act, shall, as far as may be, be deemed to have been respectively commenced, appointed or authorised, published and made under this Act.

(3) Any enactment or document referring to the said Land Acquisition Act or to any enactment therey repealed shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

3. In this Act, unless there is something repugnant in the subject or context,— Definitions.

(*a*) the expression "land" includes benefits to arise out of land and things attached to the earth or

1. See the Mysore Adaptation of Laws Order, 1953.

permanently fastened to anything attached to the earth :

(*b*) the expression " person interested " includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act, and a person shall be deemed to be interested in land if he is interested in an easement affecting the land :

(*c*) the expression " Deputy Commissioner " means the Deputy Commissioner of a District and includes [1][the Assistant Commissioner in charge of a Revenue Sub-Division and] any officer specially appointed by the Government of Mysore to perform the functions of a Deputy Commissioner under this Act:

[2][(*d*) the expression " Court " means a principal Civil Court of original jurisdiction and includes—

(i) any other Court which the Government has specially invested (as it is hereby empowered to do) with the functions of such Court under this Act, and

(ii) a special judicial officer whom the Government has appointed (as it is hereby empowered to do) to perform the functions of such Court under this Act within any specified local limits.]

(*e*) the expression " Company " means a Company registered under the law for the time being in force relating to companies in the [3][whole of the State of Mysore except Bellary District] or under the Indian Companies Act, 1882, or under the (English) Companies Act, 1862 to 1890, or incorporated by an Act of Parliament or of the Governor-General in Council, or by Royal Charter or Letters Patent, [4][and includes a Society registered under the Societies Registration Act III of 1904 and a " registered society " within the meaning of the Mysore Co-operative Societies Act, VII of 1918.][5]

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1. Inserted by Act XI of 1916.
2. Substituted for the original clause by Act III of 1941.
3. See the Mysore Adaptation of Laws Order, 1953.
4. Comma inserted after the words " Letters Patent " and other words added by Act VII of 1932.
5. Repealed and re-enacted as Mysore Act LII of 1948.

(*f*) the expression "public purpose" includes the provision of village sites;

(*g*) the following persons shall be deemed persons "entitled to act" as and to the extent hereinafter provided (that is to say)—

trustees for other persons beneficially interested shall be deemed the persons entitled to act with reference to any such case and that to the same extent as the persons beneficially interested could have acted if free from disability;

a married woman, in cases to which the English law is applicable, shall be deemed the person so entitled to act, and whether of full age or not, to the same extent as if she were unmarried and of full age; and

the guardians of minors and the committees or managers, of lunatics or idiots shall be deemed repectively, the persons so entitled to act, to the same extent as the minors, lunatics, or idiots themselves, if free from disability, could have acted:

Provided that—

(*i*) no person shall be deemed "entitled to act" whose interest in the subject matter shall be shown to the satisfaction of the Deputy Commissioner or Court to be adverse to the interest of the person interested for whom he would otherwise be entitled to act;

(*ii*) in every such case the person interested may appear by a next friend, or in default of his appearance by a next friend, the Deputy Commissioner or Court, as the case may be, shall appoint a guardian for the case to act on his behalf in the conduct thereof;

(*iii*) the provisions of Chapter XXXI of the Code of Civil Procedure shall *mutatis mutandis*, apply in the case of persons interested appearing before a Deputy Commissioner or Court by a next friend, or by a guardian for the case, in proceedings under this Act; and

(*iv*) no person "entitled to act" shall be competent to receive the compensation money payable to

the person for whom he is entitled to act, unless he would have been competent to alienate the land and receive and give a good discharge for the purchase-money on a voluntary sale.

PART II.

ACQUISITION.

Preliminary Investigation.

Publication of preliminary notification and powers of officers thereupon.

4. (1) Whenever it appears to the Government of Mysore that land in any locality [1][is needed or] is likely to be needed for any public purpose, a notification to that effect shall be published in the official Gazette, and the Deputy Commissioner shall cause public notice of the substance of such notification to be given at convenient places in the said locality.

(2) Thereupon it shall be lawful for any officer, either generally or specially authorised by the Government in this behalf, and for his servants and workmen,—

to enter upon and survey and take levels of any land in such locality; to dig or bore into the sub-soil; to do all other acts necessary to ascertain whether the land is adapted for such purpose;

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon;

to mark such levels, boundaries, and line by placing marks and cutting trenches;

and, where otherwise the survey cannot be completed and the levels taken and the boundaries, and the line marked, to cut down and clear away any part of any standing crop, fence, or jungle:

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

Payment for damage.

5. The officer so authorised shall, at the time of such entry, pay or tender payment for all necessary damage

1. Inserted by Act I of 1927.

to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, he shall at once refer the dispute to the decision of the Deputy Commissioner or other chief revenue-officer of the district, and such decision shall be final.

[1][*Objections.*

Hearing of objections.

5-A. (1) Any person interested in any land which has been notified under section 4, sub-section (1) as being needed or likely to be needed for a puplic purpose or for a Company may within thirty days after the issue of the notification, object to the acquisition of the land or of any land in the locality, as the case may be.

(2) Every objection under sub-section (1) shall be made to the Deputy Commissioner in writing, and the Deputy Commissioner shall give the objector an opportunity of being heard either in person or by pleader and shall after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, submit the case for the decision of the Government, together with the record of the proceedings held by him and a report containing his recommendations on the objections. The decision of the Government on the objections shall be final.

(3) For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation, if the land were acquired under this Act.]

Declaration of Intended Acquisition.

Declaration that land is required for a public purpose.

6. (1) Subject to the provisions of Part VII of this Act, [2][when the Government is satisfied, after considering the report, if any, made under section 5-A, sub-section (2)] that any particular land is needed for a public purpose, or for a Company, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorised to certify its orders:

Provided that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a Company, or wholly or partly out of

1. Heading and section 5A inserted by Act I of 1927.
2. Substituted for the original by Act I of 1927.

public revenues or some fund controlled or managed by a local authority.

(2) The declaration shall be published in the official Gazette, and shall state the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and where a plan shall have been made of the land, the place where such plan may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a Company, as the case may be; and, after making such a declaration, the Government of Mysore may acquire the land in manner hereinafter appearing.

After declaration Deputy Commissioner to take order for acquisition.

7. Whenever any land shall have been so declared to be needed for a public purpose or for a Company, the Government of Mysore or some officer authorised by the Government of Mysore in this behalf, shall direct the Deputy Commissioner to take order for the acquisition of the land.

Land to be marked out, measured and planned.

8. The Deputy Commissioner shall thereupon cause the land (unless it has been already marked out under section 4 to be marked out. He shall also cause it to be measured, and (if no plan has been made thereof) a plan to be made of the same.

Notice to persons interested.

9. (1) The Deputy Commissioner shall then cause public notice to be given at convenient places on or near the land to be taken stating that the Government intends to take possession of the land, and that claims to compensation for all interests in such lands may be made to him.

(2) Such notice shall state the particulars of the lands so needed, and shall require all persons interested in the land to appear personally or by agent before the Deputy Commissioner at a time and place therein mentioned (such time not being earlier than fifteen days after the date of publication of the notice), and to state the nature of their respective interests in the land and the amount and particulars of their claims to compensation for such interests, and their objections (if any) to the measurements made under section 8. The Deputy Commissioner may in any case require such statement to be made in writing and signed by the party or his agent.

(3) The Deputy Commissioner shall also serve notice to the same effect on the occupier (if any) of such land and on all such persons known or believed to be interested therein, or to be entitled to act for persons so interested, as reside, or have agents authorized to receive service on their behalf, within the revenue district in which the land is situate.

(4) In case any person so interested resides elsewhere and has no such agent, the notice shall be sent to him by post in a letter addressed to him at his last known residence, address, or place of business, and registered under Part III of the Indian Post Office Act, 1866.

Power to require and enforce the making of statements as to names and interests.

10. (1) The Deputy Commissioner may also require any such person to make or deliver to him, at a time and place mentioned (such time not being earlier than fifteen days after the date of the requisition), a statement containing so far as may be practicable, the name of every other person possessing any interest in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant, or otherwise, and of the nature of such interest, and of the rents and profits (if any) received or receivable on account thereof for three years next preceding the date of the statement.

(2) Every person required to make or deliver a statement under this section or section 9 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code.

Enquiry into Measurements, Value and Claims, and Award by the Deputy Commissioner.

Enquiry and award by Deputy Commissioner.

11. On the day so fixed, or on any other day to which the enquiry has been adjourned, the Deputy Commissioner shall proceed to enquire into the objections (if any) which any person interested has stated pursuant to a notice given under section 9 to the measurements made under section 8, and into the value of the land [1][at the date of publication of the notification under section 4, sub-section (1)] and into the respective interests of the persons claiming the compensation, and shall make an award under his hand of—

(i) the true area of land;

1. Inserted by Act I of 1927.

(ii) the compensation which in his opinion should be allowed for the land; and

(iii) the apportionment of the said compensation among all the persons known or believed to be interested in the land, of whom, or of whose claims, he has information, whether or not they have respectively appeared before him.

Award of Deputy Commissioner when to be final.

12. (1) Such award shall be filed in the Deputy Commissioner's Office and shall, except as hereinafter provided, be final and conclusive evidence, as between the Deputy Commissioner and the persons interested, whether they have respectively appeared before the Deputy Commissioner or not, of the true area and value of the land, and the apportionment of the compensation among the persons interested.

(2) The Deputy Commissioner shall give immediate notice of his award to such of the persons interested as are not present personally or by their representatives when the award is made.

Adjournment of enquiry.

13. The Deputy Commissioner may, for any cause he thinks fit, from time to time, adjourn the enquiry to a date to be fixed by him.

Power to summon and enforce attendance of witnesses and production of documents.

14. For the purpose of enquiries under this Act the Deputy Commissioner shall have power to summon and enforce the attendance of witnesses, including the parties interested or any of them, and to compel the production of documents by the same means, and (so far as may be) in the same manner, as is provided in the case of a Civil Court under the Code of Civil Procedure.

Matters to be considered and neglected.

15. In determining the amount of compensation, the Deputy Commissioner shall be guided by the provisions contained in sections 23 and 24.

Taking Possession.

Power to take possession.

16. When the Deputy Commissioner has made an award under section 11, he may take possession of the land, which shall thereupon vest absolutely in the Government, free from all encumbrances.

Special powers in cases of urgency.

17. (1) In case of urgency, whenever the Government of Mysore so directs, the Deputy Commissioner, though no such award has been made, may on the expiration of fifteen days from the publication of the notice mentioned

in section 9, sub-section (1), take possession of any waste or arable land needed for public purposes or for a Company. Such land shall thereupon vest absolutely in the Government, free from all encumbrances.

(2) Whenever, owing to any sudden change in the channel of any navigable river or other unforeseen emergency, it becomes necessary for any Railway Administration to acquire the immediate possession of any land for the maintenance of their traffic or for the purpose of making thereon a river-side or ghat station, or of providing convenient connection with or access to any such station, the Deputy Commissioner may, immediately after the publication of the notice mentioned in sub-section (1) and with the previous sanction of the Government of Mysore, enter upon and take possession of such land, which shall thereupon vest absolutely in the Government free from all encumbrances :

Provided that the Deputy Commissioner shall not take possession of any building or a part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours' notice of his intention so to do or such longer notice as may be reasonably sufficient to enable such occupier to remove his movable property from such building without unnecessary inconvenience.

(3) In every case under either of the preceding sub-sections the Deputy Commissioner shall at the time of taking possession offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them caused by such sudden dispossession and not excepted in section 24 ; and, in case such offer is not accepted, the value of such crops and trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions herein contained.

[1][(4) In the case of any land to which in the opinion of the Government, the provisions of sub-section (1) or sub-section (2) are applicable, the Government may direct that the provisions of section 5A shall not apply, and if it does so direct, a declaration may be made under section 6, in respect of the land at any time after the

1. Sub-section (4) added by Act I of 1927.

publication of the notification under section 4, sub-section (*1*).]

PART III.

REFERENCE TO COURT AND PROCEDURE THEREON.

Reference to Court.

18. (1) Any person interested who has not accepted the award, may, by written application to the Deputy Commissioner, require that the matter be referred by the Deputy Commissioner, for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award is taken :

Provided that every such application shall be made,—

(*a*) if the person making it was present or represented before the Deputy Commissioner at the time when he made his award, within six weeks from the date of the Deputy Commissioner's award ;

(*b*) in other cases, within six weeks of the receipt of the notice from the Deputy Commissioner under section 12, sub-section (2), or within six months from the date of the Deputy Commissioner's award, whichever period shall first expire.

[1][(3) On receipt of such application, the Deputy Commissioner shall make the reference to the Court.]

Deputy Commissioner's statement to the Court.

19. (1) In making the reference, the Deputy Commissioner shall state for the information of the Court, in writing under his hand,—

(*a*) the situation and extent of the land with particulars of any trees, buildings or standing crops thereon ;

(*b*) the names of the persons whom he has reason to think interested in such land ;

(*c*) the amount awarded for damages and paid or tendered under sections 5 and 17, or either of them, and the amount of compensation awarded under section 11 ; and

1. Sub-section (3) added by Act I of 1927.

(*Part III—Reference to Court and Procedure thereon*)

(*d*) if the objection be to the amount of the compensation, the grounds on which the amount of compensation was determined.

(2) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by, the parties interested respectively.

Service of notice.

20. The Court shall thereupon cause a notice, specifying the day on which the Court will proceed to determine the objection, and directing their appearance before the Court on that day, to be served on the following persons, namely :—

(*a*) the applicant;

(*b*) all persons interested in the objection, except such (if any) of them as have consented without protest to receive payment of the compensation awarded ; and

(*c*) if the objection is in regard to the area of the land or to the amount of the compensation, the Deputy Commissioner.

Restriction on scope of proceedings.

21. The scope of the inquiry in every such proceeding shall be restricted to a consideration of the interests of the persons affected by the objection.

Proceedings to be in open Court.

22. Every such proceeding shall take place in open Court, and all persons entitled to practise in any Civil Court in the Province shall be entitled to appear, plead, and act (as the case may be) in such proceeding.

Matters to be considered in determining compensation.

23. (1) In determining the amount of compensation to be awarded for land acquired under this Act, the Court shall take into consideration—

first, the market value of the land at the date of the publication of the [1][notification under section 4, sub-section (1)] ;

secondly, the damage sustained by the person interested, by reason of the taking of any standing crops or trees which may be on the land at the time of the Deputy Commissioner's taking possession thereof;

thirdly, the damage (if any) sustained by the person interested, at the time of the Deputy Commissioner's

1. Substituted for the original by Act 1 of 1927.

taking possession of the land, by reason of severing such land from his other land;

fourthly, the damage (if any) sustained by the person interested, at the time of the Deputy Commissioner's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings;

fifthly, if, in consequence of the acquisition of the land by the Deputy Commissioner, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change; and

sixthly, the damage (if any) *bona fide* resulting from diminution of the profits of the land between the time of the publication of the declaration under section 6 and the time of the Deputy Commissioner's taking possession of the land.

(2) In addition to the market value of the land, as above provided, the Court shall in every case award a sum of fifteen per centum on such market value, in consideration of the compulsory nature of the acquisition.

Matters to be neglected in determining compensation.

24. But the Court shall not take into consideration—

first, the degree of urgency which has led to the acquisition;

secondly, any disinclination of the person interested to part with the land acquired;

thirdly, any damage sustained by him which, if caused by a private person, would not render such person liable to a suit;

fourthly, any damage which is likely to be caused to the land acquired, after the date of the publication of the declaration under section 6, by or in consequence of the use to which it will be put;

fifthly, any increase to the value of the land acquired likely to accrue from the use to which it will be put when acquired;

sixthly, any increase to the value of the other land of the person interested likely to accrue from the use to which the land acquired will be put; or

seventhly, any outlay or improvements on, or disposal of the land acquired, commenced, made or effected without the sanction of the Deputy Commissioner, after the

date of the publication of the[1] [notification under section 4, sub-section (1).]

Rules as to amount of compensation.

25. (1) When the applicant has made a claim to compensation, pursuant to any notice given under section 9, the amount awarded to him by the Court shall not exceed the amount so claimed or be less than the amount awarded by the Deputy Commissioner under section 11.

(2) When the applicant has refused to make such claim, or has omitted without sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded by the Court shall in no case exceed the amount awarded by the Deputy Commissioner.

(3) When the applicant has omitted for a sufficient reason (to be allowed by the Judge) to make such claim, the amount awarded to him by the Court shall not be less than, and may exceed, the amount awarded by the Deputy Commissioner.

Form of awards.

26. Every award under this Part shall be in writing signed by the Judge, and shall specify the amount awarded under clause *first* of sub-section (1) of section 23, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

Costs.

27. (1) Every such award shall also state the amount of costs incurred in the proceedings under this Part, and by what persons and in what proportions they are to be paid.

(2) When the award of the Deputy Commissioner is not upheld, the costs shall ordinarily be paid by the Deputy Commissioner unless the Court shall be of opinion that the claim of the applicant was so extravagant or that he was so negligent in putting his case before the Deputy Commissioner, that some deduction from his costs should be made or that he should pay a part of the Deputy Commissioner's costs.

Deputy Commissioner may be directed to pay interest on excess compensation.

28. If the sum which, in the opinion of the Court, the Deputy Commissioner ought to have awarded as compensation is in excess of the sum which the Deputy Commissioner did award as compensation, the award of the Court may direct that the Deputy Commissioner shall pay

[1] Substituted for the original words by Act I of 1927.

interest on such excess at the rate of six per centum per annum from the date on which he took possession of the land to the date of payment of such excess into Court.

PART IV.

APPORTIONMENT OF COMPENSATION.

Particulars of apportionment to be specified.

29. Where there are several persons interested, if such persons agree in the apportionment of the compensation, the particulars of such apportionment shall be specified in the award, and as between such persons the award shall be conclusive evidence of the correctness of the apportionment.

Dispute as to apportionment.

30. When the amount of compensation has been settled under section 11, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof, is payable, the Deputy Commissioner may refer such dispute to the decision of the Court.

PART V.

PAYMENT.

Payment of compensation or deposit of same in Court.

31. (1) On making an award under section 11, the Deputy Commissioner shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award, and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub-section.

(2) If they shall not consent to receive it, or if there be no person competent to alienate the land or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Deputy Commissioner shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted :

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount :

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18 :

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto.

(3) Notwithstanding anything in this section, the Deputy Commissioner may, with the sanction of the Government of Mysore, instead of awarding a money compensation in respect of any land, make any arrangement with a person having a limited interest in such land, either by the grant of other lands in exchange, the remission of land revenue on other lands held under the same title, or in such other way as may be equitable having regard to the interests of the parties concerned.

(4) Nothing in the last foregoing sub-section shall be construed to interfere with or limit the power of the Deputy Commissioner to enter into any arrangement with any person interested in the land and competent to contract in respect thereof.

Investment of money deposited in respect of lands belonging to persons incompetent to alienate.

32. (1) If any money shall be deposited in Court under sub-section (2) of the last preceding section and it appears that the land in respect whereof the same was awarded belonged to any person who has no power to alienate the same, the Court shall—

(*a*) order the money to be invested in the purchase of other lands to be held under the like title and conditions of ownership as the land in respect of which such money shall have been deposited was held, or

(*b*) if such purchase cannot be effected forthwith, then in such Government or other approved securities as the Court shall think fit

and shall direct the payment of the interest or other proceeds arising from such investment to the person or persons who would for the time being have been entitled to the possession of the said land, and such moneys shall

remain so deposited and invested until the same be applied—

(*i*) in the purchase of such other lands as aforesaid; or

(*ii*) in payment to any person or persons becoming absolutely entitled thereto.

(2) In all cases of moneys deposited to which this section applies, the Court shall order the costs of the following matters, including therein all reasonable charges and expenses incident thereto to be paid by the Deputy Commissioner, namely :—

(*a*) the cost of such investments as aforesaid ;

(*b*) the cost of the orders for the payment of the interests or other proceeds of the securities upon which such moneys are for the time being invested, and for the payment out of Court of the principal of such moneys, and of all proceedings relating thereto, except such as may be occasioned by litigation between adverse claimants.

Investment of money deposited in other cases.

33. When any money shall have been deposited in Court under this Act for any cause other than that mentioned in the last preceding section, the Court may, on the application of any party interested or claiming an interest in such money, order the same to be invested in such Government or other approved securities as it may think proper, and may direct the interest or other proceeds of any such investment to be accumulated and paid in such manner as it may consider will give the parties interested therein the same benefit therefrom as they might have had from the land in respect whereof such money shall have been deposited or as near thereto as may be.

Payment of interest.

34. When the amount of such compensation is not paid or deposited on or before taking possession of the land, the Deputy Commissioner shall pay the amount awarded with interest thereon at the rate of six per centum per annum from the time of so taking possession until it shall have been so paid or deposited.

PART VI.

TEMPORARY OCCUPATION OF LAND.

Temporary occupation of waste or arable land. Procedure when difference as to compensation exists.

35. (1) Subject to the provisions of Part VII of this Act, whenever it appears to the Government of Mysore that the temporary occupation and use of any waste or arable land are needed for any public purpose, or for a Company, the Government of Mysore may direct the Deputy Commissioner to procure the occupation and the use of the same for such term as it shall think fit, not exceeding three years from the commencement of such occupation.

(2) The Deputy Commissioner shall thereupon give notice in writing to the persons interested in such land of the purpose for which the same is needed, and shall for the occupation and use thereof for such term as aforesaid, and for the materials (if any) to be taken therefrom, pay to them such compensation, either in a gross sum of money, or by monthly or other periodical payments, as shall be agreed upon in writing between him and such persons respectively.

(3) In case the Deputy Commissioner and the persons interested differ as to the sufficiency of the compensation or apportionment thereof, the Deputy Commissioner shall refer such difference to the decision of the Court.

Power to enter and take possession and compensation on restoration.

36. (1) On payment of such compensation, or on executing such agreement, or on making a reference under section 35, the Deputy Commissioner may enter upon and take possession of the land, and use or permit the use thereof in accordance with the terms of the said notice.

(2) On the expiration of the term, the Deputy Commissioner shall make or tender to the persons interested compensation for the damage (if any) done to the land and not provided for by the agreement, and shall restore the land to the persons interested therein:

Provided that, if the land has become permanently unfit to be used for the purpose for which it was used immediately before the commencement of such term, and if the persons interested shall so require, the Government of Mysore shall proceed under this Act to acquire the

land as if it was needed permanently for a public purpose or for a Company.

Difference as to condition of land.

37. In case, the Deputy Commissioner and persons interested differ as to the condition of the land at the expiration of the term, or as to any matter connected with the said agreement, the Deputy Commissioner shall refer such difference to the decision of the Court.

PART VII.

ACQUISITION OF LAND FOR COMPANIES.

Company may be authorised to enter and survey.

38. (1) The Government of Mysore may authorize any officer of any Company desiring to acquire land for its purposes to exercise the powers conferred by section 4.

(2) In every such case, section 4 shall be construed as if for the words "for such purpose" the words "for the purposes of the Company" were substituted; and section 5 shall be construed as if after the words "the officer" the words "of the Company" were inserted.

Previous consent of Government of Mysore and execution of agreement necessary.

39. The provisions of sections 6 to 37 (both inclusive) shall not be put in force in order to acquire land for any Company, unless with the previous consent of the Government of Mysore, nor unless the Company shall have executed the agreement hereinafter mentioned.

Previous enquiry.

40. (1) Such consent shall not be given unless the Government of Mysore be satisfied, [1][either on the report of the Deputy Commissioner under section 5-A, sub-section (2) or] by an enquiry held as hereinafter provided,—

(*a*) that such acquisition is needed for the construction of some work, and

(*b*) that such work is likely to prove useful to the public.

(2) Such enquiry shall be held by such officer and at such time and place as the Government of Mysore shall appoint.

(3) Such officer may summon and enforce the attendance of witnesses and compel the production of documents by the same means and, as far as possible, in

1. Inserted by Act I of 1927.

the same manner as is provided by the Code of Civil Procedure in the case of a Civil Court.

Agreement with Government of Mysore.

41. [1][If the Government] is satisfied [1][after considering the report, if any, of the Deputy Commissioner under section 5-A, sub-section (2) or on the report of the officer making an enquiry under section 40], that the proposed acquisition is needed for the construction of a work, and that such work is likely to prove useful to the public, it shall, subject to such rules as it may from time to time prescribe in this behalf, require the Company to enter into an agreement with the Government of Mysore providing for the following matters, namely :—

(1) the payment to Government of the cost of the acquisition ;

(2) the transfer, on such payment, of the land to the Company ;

(3) the terms on which the land shall be held by the Company ;

(4) the time within which, and the conditions on which, the work shall be executed and maintained; and

(5) the terms on which the public shall be entitled to use the work.

Publication of agreement.

42. Every such agreement shall, as soon as may be after its execution, be published in the official Gazette, and shall thereupon (so far as regards the terms on which the public shall be entitled to use the work) have the same effect as if it had formed part of this Act.

Sections 39 to 42 not to apply where Government bound to provide land for Companies.

43. The provisions of sections 39 to 42, both inclusive shall not apply and the corresponding sections of the Land Acquisition Act, 1870, shall be deemed never to have applied, to the acquisition of land for any Railway or other Company, for the purposes of which the Government is, or was bound to provide land.

How such obligation may be proved.

44. The obligation mentioned in section 43 may be proved by any memorandum, certificate, or order, issued by Government.

1. The words " If the Government " were substituted and other words were inserted by Act I of 1927.

PART VIII.

MISCELLANEOUS.

Service of notices.

45. (1) Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed, in the case of a notice under section 4, by the officer therein mentioned, and, in the case of any other notice, by or by order of the Deputy Commissioner or the Judge.

(2) Whenever it may be practicable, the service of the notice shall be made on the person therein named.

(3) When such person cannot be found, the service may be made on any adult male member of his family residing with him; and, if no such adult male member can be found, the notice may be served by fixing the copy on the outer door of the house in which the person therein named ordinarily dwells or carries on business, or by fixing a copy thereof in some conspicuous place in the office of the officer aforesaid or of the Deputy Commissioner or in the Court-house, and also in some conspicuous part of the land to be acquired:

Provided that, if the Deputy Commissioner or Judge shall so direct, a notice may be sent by post, in a letter addressed to the person named therein at his last known residence, address, or place of business, and registered under Part III of the Indian Post Office Act, 1866, and service of it may be proved by the production of the addressee's receipt.

Penalty for obstructing acquisition of land.

46. Whoever wilfully obstructs any person in doing any of the acts authorised by section 4 or section 8 or wilfully fills up, destroys, damages, or displaces any trench or mark made under section 4, shall, on conviction before a Magistrate, be liable to imprisonment for any term not exceeding one month, or to fine not exceeding fifty rupees, or to both.

Magistrate to enforce surrender.

47. If the Deputy Commissioner is opposed or impeded in taking possession under this Act of any land, he shall, if a Magistrate, enforce the surrender of the land to himself, and, if not a Magistrate, he shall apply to a Magistrate who shall enforce the surrender of the land to the Deputy Commissioner.

(*Part VIII—Miscellaneous*)

Completion of acquisition not compulsory, but compensation to be awarded when not completed.

48. (1) Except in the case provided for in section 36, the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken.

(2) Whether the Government withdraws from any such acquisition, the Deputy Commissioner shall determine the amount of compensation due for the damage suffered by the owner in consequence of the notice or of any proceedings thereunder, and shall pay such amount to the person interested, together with all costs reasonably incurred by him in the prosecution of the proceedings under this Act relating to the said land.

(3) The provisions of Part III of this Act shall apply, so far as may be, to the determination of the compensation payable under this section.

Acquisition of part of house or building.

49. (1) The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house, manufactory, or other building, if the owner desires that the whole of such house, manufactory, or building shall be so acquired :

Provided that the owner may, at any time before the Deputy Commissioner has made his award under section 11, by notice in writing, withdraw or modify his expressed desire that the whole of such house, manufactory, or building, shall be so acquired :

Provided also that, if any question shall arise as to whether any land proposed to be taken under this Act does or does not form part of a house, manufactory, or building, within the meaning of this section, the Deputy Commissioner shall refer the determination of such question to the Court and shall not take possession of such land until after the question has been determined.

In deciding on such a reference the Court shall have regard to the question whether the land proposed to be taken is reasonably required for the full and unimpaired use of the house, manufactory, or building.

(2) If in the case of any claim under section 23, subsection (1), *thirdly*, by a person interested, on account of the severing of the land to be acquired, from his or her land, the Government of Mysore is of opinion that the claim is unreasonable or excessive, it may, at any time

before the Deputy Commissioner has made his award, order the acquisition of the whole of the land of which the land first sought to be acquired forms a part.

(3) In the case last hereinbefore provided for, no fresh declaration or other proceedings under sections 6 to 10, both inclusive, shall be necessary; but the Deputy Commissioner shall without delay furnish a copy of the order of the Government of Mysore to the person interested, and shall thereafter proceed to make his award under section 11.

Acquisition of land at cost of a local authority or Company.

50. (1) Where the provisions of this Act are put in force for the purpose of acquiring land at the cost of any fund controlled or managed by a local authority or of any Company, the charges of and incidental to such acquisition shall be defrayed from or by such fund or Company.

(2) In any proceeding held before a Deputy Commissioner or Court in such cases the local authority or Company concerned may appear and adduce evidence for the purpose of determining the amount of compensation:

Provided that no such local authority or Company shall be entitled to demand a reference under section 18.

Exemption from stamp-duty and fees.

51. No award or agreement made under this Act shall be chargeable with stamp-duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same.

Notice in case of suits for anything done in pursuance of Act.

52. No suit or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended proceeding, and of the cause thereof, nor after tender of sufficient amends.

Code of Civil Procedure to apply to proceedings before Court.

53. Save in so far as they may be inconsistent with anything contained in this Act, the provisions of the Code of Civil Procedure shall apply to all proceedings before the Court under this Act.

Appeals in proceedings before Court.

54. Subject to the provisions of the Code of Civil Procedure applicable to appeals from original decrees, an appeal shall lie to the High Court from the award or

from any part of the award of the Court in any proceedings under this Act.

Power to make rules.

55. (1) The Government of Mysore shall have power to make rules consistent with this Act for the guidance of officers in all matters connected with its enforcement, and may from time to time alter and add to the rules so made.

(2) All such rules, alterations, and additions, shall be published in the official Gazette, and shall thereupon have the force of law.

MYSORE ACT No. I OF 1895.

THE PREVENTION OF CRUELTY TO ANIMALS ACT, 1895.

(PASSED ON THE 21ST DAY OF JUNE 1895.)

An Act for the Prevention of Cruelty to Animals.

WHEREAS it is expedient to make further provision for the prevention of cruelty to animals; Her Highness the Maharani-Regent is pleased to enact as follows :—

Title.

1. (1) This Act may be called the Prevention of Cruelty to Animals Act, 1895.

Commencement and extent.

(2) It shall come into force in the City of Bangalore on the 27th day of June 1895 and the Government of Mysore may, by notification in the official Gazette, extend on and from a date to be specified in the notification, the whole or any part of this Act, to such other local areas, in which there is a resident Magistrate. as it may think fit.

(3) The Government of Mysore may cancel or vary a notification issued under the last foregoing sub-section.

and supersession of Bengal Act I of 1869.

(4) On this Act coming into force, Bengal Act No. I of 1869 (An Act for the Prevention of Cruelty to Animals) extended in part to the territories of Mysore by the Government of India Notification No. 7 J., dated 5th February 1878, shall, except as regards anything done or any offence committed or any fine or penalty incurred or any proceedings commenced, cease to have effect in the [1][whole of the State of Mysore except Bellary District.][2]

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,

(1) " animal " means any domestic or captured animal ; and

(2) " street " includes any way, road, lane, square, court, alley, passage or open space, whether a thoroughfare or not, to which the public have access.

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1. See the Mysore Adaptation of Laws Order, 1956.
2. Bengal Act 1 of 1869, which was in force only in the town of Bangalore within municipal limits and had not been extended to other places, is thus virtually repealed.

Penalty for cruelty to animals in public places and for sale in such places of animals killed with unnecessary cruelty.

3. If any person in any street or in any other place, whether open or closed, to which the public have access, or within sight of any person in any street or any such other place,—

(*a*) cruelly and unnecessarily beats, overdrives, overloads or otherwise ill-treats any animal, or

(*b*) binds or carries any animal, in such a manner or position as to subject the animal to unnecessary pain or suffering, or

(*c*) offers, exposes or has in his possession for a sale any live animal which is suffering pain by reason of mutilation, starvation or other ill-treatment or any dead animal which he has reason to believe to have been killed in an unnecessarily cruel manner,

he shall be punished with fine which may extend to one hundred rupees or with imprisonment for a term which may extend to three months, or with both.

Penalty for practising phuka.

4. If any person performs upon any cow the operation called phuka, he shall be punished with fine which may extend to one hundred rupees, or with imprisonment which may extend to three months, or with both.

Penalty for killing animals with unnecessary cruelty anywhere.

5. If any person kills any animal in an unnecessarily cruel manner, he shall be punished with fine which may extend to two hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

Penalty for employing anywhere animals unfit for labour.

6. (1) If any person employs in any work or labour any animal which, by reason of any disease, infirmity, wound, sore or other cause is unfit to be so employed, or permits any such unfit animal in his possession or under his control to be so employed, he shall be punished with fine which may extend to one hundred rupees.

(2) The Government of Mysore may, by general or special order, appoint places to be infirmaries for the treatment and care of animals in respect of which offences against sub-section (1) have been committed.

(3) The Magistrate before whom a prosecution for such an offence has been instituted may direct that the animal in respect of which the offence is alleged or proved to have been committed shall be sent for treatment and

care to an infirmary and be there detained until it is, in his opinion or in the opinion of some other Magistrate, again fit for the work or labour on which it has been ordinarily employed.

(4) The cost of the treatment, feeding and watering of the animal in the infirmary shall be payable by the owner of the animal according to such scale of rates as the District Magistrate may from time to time prescribe.

(5) If the owner refuses or neglects to pay such cost and to remove the animal within such time as a Magistrate may prescribe, the Magistrate may direct that the animal be sold and that the proceeds of the sale be applied to the payment of such cost.

(6) The surplus, if any, of the proceeds of the sale shall on application made by the owner within two months after the date of the sale be paid to him; but the owner shall not be liable to make any payment in excess of the proceeds of the sale.

Penalty for permitting diseased animals to go at large or to die in public places.

7. If any person wilfully permits any animal of which he is the owner to go at large in any street while the animal is affected with contagious or infectious disease, or without reasonable excuse permits any diseased or disabled animal of which he is the owner to die in any street, he shall be punished with fine which may extend to one hundred rupees.

Search-warrants.

8. (1) If a Magistrate of the first class, Sub-Divisional Magistrate or District Superintendent of Police, upon information in writing and after such inquiry as he thinks necessary, has reason to believe that an offence against section 4, section 5 or section 6 is being or is about to be or has been committed in any place, he may either himself enter and search or by his warrant authorize any police officer above the rank of a constable to enter and search the place.

(2) The provisions of the Code of Criminal Procedure, 1882, relating to searches under that Code shall, so far as those provisions can be made applicable, apply to a search under sub-section (1).

Limitation of prosecution.

9. A prosecution for an offence against this Act shall not be instituted after the expiration of three months from the date of the commission of the offence.

Destruction of suffering animals.

10. When any Magistrate or District Superintendent of Police has reason to believe that an offence against this Act has been committed in respect of any animal, he may direct the immediate destruction of the animal, if in his opinion its sufferings are such as to render such a direction proper.

Saving with respect to religious rites and usages.

11. Nothing in this Act shall render it an offence to kill any animal in a manner required by the religion or religious rites and usages of any race, sect, tribe or class.

MYSORE ACT No. II OF 1897.

THE EPIDEMIC DISEASES ACT, 1897.

(PASSED ON THE 11TH DAY OF FEBRUARY 1897.)

An Act to provide for the prevention of the outbreak or spread of dangerous Epidemic Disease.

Preamble.

WHEREAS it is expedient to provide for the prevention of the outbreak or spread of dangerous epidemic disease in [1][the State of Mysore except Ballary District] ; Her Highness the Maharani-Regent is pleased to enact as follows :—

Title.

1. (i) This Act may be called " The Epidemic Diseases Act, 1897 " ;

Extent.

(ii) It extends to the [1][whole of the State of Mysore except Bellary District] ; and

Commencement.

(iii) It shall come into force at once.

Power to take special measures and prescribe regulations as to dangerous epidemic disease.

2. (i) When at any time the Government of Mysore is satisfied that [1][the State of Mysore except Bellary District] or any part thereof is visited or threatened with, an outbreak of any dangerous epidemic disease, the said Government, if it thinks that the ordinary provisions of the law for the time being in force are insufficient for the purpose, may take such measures and, by public notice, prescribe such temporary regulations to be observed by the public or any person or class of persons, as it shall deem necessary to prevent the outbreak of such disease or the spread thereof, and may determine in what manner and by whom any expenses incurred (including compensation, if any) shall be defrayed.

(ii) The Government of Mysore may require or empower any person to take such measures as he shall deem necessary to prevent the outbreak of such disease or the spread thereof.

(iii) In particular, and without prejudice to the generality of the foregoing provisions, the Government of Mysore may take measures and prescribe regulations for the inspection of persons travelling by railway or

1. See the Mysore Adaptation of Laws Order, 1959.

otherwise, and the segregation in hospital, temporary accommodation or otherwise, of persons suspected by the inspecting officer of being infected with any such disease.

Penalty.

3. Any person disobeying any regulation or order made under this Act shall be deemed to have committed an offence punishable under section 188 of the Indian Penal Code.

Protection to persons acting under Act.

4. No suit or other legal proceeding shall lie against any person for anything done, or in good faith intended to be done, under this Act.

MYSORE ACT No. IV OF 1897.

THE SRINGERI JAGHIR INAM SETTLEMENT ACT, 1897.

(PASSED ON THE TWELFTH DAY OF DECEMBER 1897.)

Preamble.

WHEREAS the Jaghir of Sringeri as defined in the Schedule hereunto annexed, vests in the Guru of the Sringeri Matt for the time being; whereas the present Guru of the said Mutt, His Holiness Srimat Paramahamsa Parivrajakacharya Satchidananda Sivabhinava Narasimha Bharati Swami, has made an application to the Government of Mysore to make a settlement of the Minor Inams, within the said Jaghir of Sringeri; whereas the Minor Inams, granted or recognised by the Sovereign of the time, or granted by the Guru of the said Mutt, for the support of Temples and Agraharas, or for other purposes, have, in some cases, been unauthorizedly alienated, and in other cases, the objects of the grant have ceased to exist; and whereas both in compliance with the request of the Guru and for the important purpose of establishing fixity of title and tenure within the Jaghir, the Government of Mysore deems it necessary to direct an investigation into the validity of all existing Inams held within the Jaghir, and their settlement : Her Highness the Maharani-Regent has been pleased to enact as follows :—

Short title. Commencement.

1. This Act shall be called "The Sringeri Jaghir Inam Settlement Act, 1897." And it shall come into force on the date of the passing thereof.

Introduction of Inam Settlement.

2. It shall be lawful for the Government of Mysore, whenever it may deem expedient, to direct an investigation into, and the settlement of, Inams within the Jaghir of Sringeri.

Settlement how to be conducted.

3. The settlement mentioned in the last preceding section shall be conducted in accordance with the Inam Rules in force in Mysore in so far as they may be applicable, and under such further rules, as, owing to the peculiar conditions of land tenure in the Jaghir, the Government of Mysore may, from time to time, make for the proper carrying out of the Inam settlement in the said Jaghir. The Rules made under this section, when published in the official Gazette, shall have the force of law.

4. The settlement effected, and the rights and obligations ascertained, determined and defined under the provisions of the last preceding section, shall be binding upon the Jaghirdar and upon all other persons holding, or having an interest in, land in the Jaghir. On any question decided by the settlement made under this Act, an appeal shall lie to the Government of Mysore whose decision thereon shall be final. Finality of Settlement.

5. It shall not be competent for any Court in the State to question the validity of any settlement made under this Act. Incompetency of Courts to question validity of settlement.

SCHEDULE SHOWING THE BOUNDARIES OF THE SRINGERI JAGHIR.

The Jaghir is situated in the centre of the Koppa Taluk and is bounded on the—

North by—the Government villages of Hegarsu, Talgod, Kanchi, Malali, Hoshalli, Melbelari, Herur, Chitravalli, Abali, Kammarhalli, Puduvani and Haivalli.

East by—part of the Tunga River and the Government villages of Nidadali, Bhuvankoti, Balavankodagi, Aradavalli, Kodago, Kulgar, Kelkoppa, Dayambali, Gumata, Yadur, Kagadi, Kachige and Heggar.

South by—the Government villages of Alaki, Nemmar Majare Valali, Maloadu, Huralikanu, Harur and Handalmane and Kodkani and part of the Tunga River.

West by—the Government villages of Kachodi, Surgodu, Gubgodu, Gundaghatta, Kadesirur, Honekodagi, Migga and Kannangi.

ii. A portion of the Koppa Taluk shown on the Revenue Survey map as "Part of Sringeri" is situated to the north-west of Sringeri Jaghir proper, and is bounded on the—

North by—the Government villages of Hukali and Nilandur.

East by—the Government village of Heggarsu.

South and West by—a river flowing beside the Government villages of Kanangi and Betgeri.

THE MYSORE GENERAL CLAUSES ACT, 1899.

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MYSORE ACT No. III OF 1899.

THE MYSORE GENERAL CLAUSES ACT, 1899.

(*As amended by Acts VII of* 1949, *X of* 1950 *and* 12 *of* 1953.)

(PASSED ON THE 3RD DAY OF JULY 1899).

An Act for further shortening the language used in [1][Mysore Acts] and for other purposes.

WHEREAS it is expedient further to shorten the language used in [1][Mysore Acts], and to make certain other provisions relating to those enactments; Her Highness the Maharani-Regent is pleased to enact as follows:—

Preliminary.

Short title and commencement.

1. [2][(1) This Act may be called the Mysore General Clauses Act, 1899.]

(2) It shall come into force at once.

[3]2. * * *

General Definitions.

Definitions.

3. In this Act, and in all [1][Mysore Acts] made after the commencement of this Act, unless there is anything repugnant in the subject or context,—

"Abet."

(1) "abet," with its grammatical variations and cognate expressions, shall have the same meaning as in the Indian Penal Code;

Act."

(2) "act," used with reference to an offence or a civil wrong, shall include a series of acts and words which refer to acts done extend also to illegal omissions;

"Affidavit."

(3) "affidavit" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing;

"Barrister."

(4) "barrister" shall mean a barrister of England, or Ireland, or a member of the Faculty of Advocates in Scotland;

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1. Substituted by Act 12 of 1953.
2. Substituted by Act X of 1950.
3. Section 2 and schedule omitted by Act 12 of 1953.

[1][(5) 'British India' shall mean, as respects the period before the commencement of Part III of the Government of India Act, 1935, all territories and places within His Majesty's dominions which were for the time being governed by His Majesty through the Governor-General of India or through any Governor or officer subordinate to the Governor-General of India, and as respects any period after that date and before the date of the establishment of the Dominion of India means all territories for the time being comprised within the Governors' Provinces and the Chief Commissioners' Provinces ;] "British India."

[2][(5a) 'Central Act' shall mean an Act of Parliament, and shall include—

(a) an Act of the Dominion Legislature or of the Indian Legislature passed before commencement of the Constitution, and

(b) an Act made before such commencement by the Governor-General in Council or the Governor-General acting in a legislative capacity,

(5b) 'Central Government' shall,—

(a) in relation to anything done before the commencement of the Constitution, mean the Governor-General or the Governor-General in Council, as the case may be ; and shall include, (i) in relation to functions entrusted under sub-section (1) of section 124 of the Government of India Act, 1935, to the Government of a Province, the Provincial Government acting within the scope of the authority given to it under that sub-section ; and (ii) in relation to the administration of a Chief Commissioner's Province, the Chief Commissioner acting within the scope of the authority given to him under sub-section (3) of section 94 of the said Act ; and

1. Substituted by Act 12 of 1953.
2. Inserted by Act 12 of 1953.

(*b*) in relation to anything done or to be done after the commencement of the Constitution, mean the President; and shall include (i) in relation to functions entrusted under clause (1) of article 258 of the Constitution to the Government of a State, the State Government acting within the scope of the authority given to it under that clause; and (ii) in relation to the administration of a Part C State, the Chief Commissioner or the Lieutenant-Governor or the Government of a neighbouring State or other authority acting within the scope of the authority given to him or it under article 239 or article 243 of the Constitution, as the case may be;]

"Chapter." (6) "Chapter" shall mean a Chapter of the Act in which the word occurs;

[1][(7) 'Chief Controlling Revenue Authority' or 'Chief Revenue Authority' shall mean such authority as the State Government may, by notification in the official Gazette, appoint;]

[2][(7*a*) 'City of Bangalore' shall mean such local area as is declared from time to time to be the City of Bangalore under any Act for the time being in force relating to the Municipal affairs of such City;]

"Commencement." (8) "Commencement," used with reference to an Act, shall mean the day on which the Act comes into force;

[2][(8*a*) 'Constitution' shall mean the Constitution of India;

(8*b*) 'Consular Officer' shall include Consul-general, consul, vice-consul, consular agent, pro-consul and any person for the time being authorised to perform the duties of consul-general, consul, vice-consul or consular agent;]

"Deputy Commissioner." (9) "Deputy Commissioner" shall mean the chief officer in charge of the revenue-administration of a district;

1. Substituted by Act 12 of 1953.
2. Inserted by Act 12 of 1953.

(10) " District Judge " shall mean the Judge of a principal Civil Court of original jurisdiction[1] [but shall not include the High Court in the exercise of original civil jurisdiction ;] "District Judge."

(11) " Document " shall include any matter written, expressed or described upon any substance by means of letters, figures or marks, or by more than one of those means, which is intended to be used, or which may be used, for the purpose of recording that matter ; "Document."

(12) " Enactment " shall include— "Enactment."

(*a*) a [2][Mysore Act]

(*b*) an Act of the Governor-General of India in Council or of a local Legislature in India, introduced as law into Mysore,

(*c*) a body of Rules (other than rules made in exercise of a power conferred by any Act or by any such Act as aforesaid) prescribed as law in Mysore, and

(*d*) any provision contained in [2][any Mysore Act] or in any such Act or body of Rules as aforesaid ;

(13) " Father," in the case of any one whose personal law permits adoption, shall include an adoptive father ; "Father."

[3][(13-A) " financial year " or " official year " shall mean the year commencing on the first day of April :

Provided that in respect of the financial or official year of 1949-50, " financial year " or " official year " shall mean the period commencing on the first day of July, 1949, and ending with the thirty-first day of March 1950 ;]

(14) " [4][revenue year] " shall mean the year commencing on the first day of July ; "Revenue year",

(15) a thing shall be deemed to be done in " good faith " where it is in fact done honestly, whether it is done negligently or not ; "Good faith."

[2][(16) ' Government ' or ' the Government ' shall— "Government."

(*a*) in relation to anything done before the commencement of the Constitution, mean the

1. Added by Act 12 of 1953.
2. Substituted by Act 12 of 1953.
3. Inserted by Act X of 1950.
4. The words " revenue year " substituted for certain words by Act X of 1950.

authority or person authorised at the relevant date to administer executive Government in Mysore ;

(*b*) in relation to anything done or to be done after the commencement of the Constitution, include both the Central Government and the State Government ;]

[1][(16*a*) 'Government securities' shall mean securities of the Central Government or of any State Government, but in any Mysore Act made before the commencement of the Constitution shall not include securities of the Government of any State other than the State of Mysore ;

(16*b*) 'High Court' used with references to civil proceedings shall mean the highest civil court of appeal (not including the Supreme Court) in the State of Mysore ;]

"Immoveable property." (17) "Immoveable property" shall include land, benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth ;

"Imprisonment." (18) "Imprisonment" shall mean imprisonment of either description as defined in the Indian Penal Code ;

[1][(18*a*) 'India' shall mean—

(*a*) as respects any period before the establishment of the Dominion of India, British India together with all territories of Indian Rulers then under the suzerainty of His Majesty, all territories under the suzerainty of such an Indian Ruler, and the tribal areas ;

(*b*) as respects any period after the establishment of the Dominion of India and before the commencement of the Constitution, all territories for the time being included in that Dominion ; and

(*c*) as respects any period after the commencement of the Constitution, all territories for the time being comprised in the territory of India ;]

1. Inserted by Act 12 of 1953.

(19) "Judicial proceeding" shall mean any proceeding in the course of which evidence is, or may be, legally taken; "Judicial proceeding."

(20) "Local authority" shall mean a municipal committee, district board, or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund; "Local authority."

(21) "Magistrate" shall include every person exercising all or any of the powers of a Magistrate under the Code of Criminal Procedure for the time being in force; "Magistrate."

(22) "Month" shall mean a month reckoned according to the British calendar; "Month."

(23) "Moveable property" shall mean property of every description, except immoveable property; "Moveable property."

(24) "Mysore" shall mean the [1][territories for the time being comprised in the State of Mysore]. "Mysore."

[2][24*a*) 'Mysore Act' shall mean an Act of the Legislature of the State of Mysore under the Constitution and shall include—

(*a*) an Act of the Legislature of the State of Mysore passed before the commencement of the Constitution; and

(*b*) an Act made before such commencement by the Maharaja of Mysore;]

(25) "oath" shall include affirmation and declaration in the case of persons by law allowed to affirm or declare instead of swearing; "Oath."

(26) "offence" shall mean any act or omission made punishable by any law for the time being in force; "Offence."

[2][(26*a*) 'Official Gazette' or 'Gazette' shall mean the *Mysore Gazette*.]

(27) "part" shall mean a part of the Act in which the word occurs; "Part."

[2][(27*a*) 'Part A State' shall mean a State for the time being specified in Part A of the First Schedule to the Constitution, 'Part B State'

1. Substituted by Act 12 of 1953.
2. Inserted by Act 12 of 1953.

shall mean a State for the time being specified in Part B of that Schedule and 'Part C State' shall mean a State for the time being specified in Part C of that Schedule or a territory for the time being administered by the President under the provisions of Article 243 of the Constitution :]

"Person." (28) "Person" shall include any company or association or body of individuals, whether incorporated or not ;

"Place." (29) "Place" shall include also a house, building, tent and vessel ;

"Public." (30) "Public" shall include any class of the public or any community ;

"Public nuisance." (31) "Public nuisance" shall mean a public nuisance as defined in the Indian Penal Code ;

"Registered." [1][(32) 'registered' used with reference to a document shall,—

(*a*) as respects any period before the first day of April 1951, mean registered under the law for the time being in force in Mysore for the registration of documents ;

(*b*) as respects any period from the first day of April 1951, mean registered in a Part A State or Part B State or Part C State under the law for the time being in force for the registration of documents ;]

[2][(33) * * *

"Rule." (34) "Rule" shall mean a rule made in exercise of a power conferred by any enactment [3][and shall include a regulation made as a rule under any enactment] ;

"Schedule." (35) "schedule" shall mean a schedule to the Act in which the word occurs ;

"Section." (36) "section" shall mean a section of the Act in which the word occurs ;

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1. Substituted by Act 12 of 1953.
2. Clause 33 omitted by Act 12 of 1953.
3. Added by Act 12 of 1953.

(37) "Sign," with its grammatical variations and cognate expressions, shall, with reference to a person who is unable to write his name, include "mark," with its grammatical variations and cognate expressions; "Sign."

(38) "Son," in the case of any one whose personal law permits adoption, shall include an adopted son; "Son."

[1][(38a) 'State' shall mean a Part A State, a Part B State or a Part C State;

(38*b*) 'State Act' shall mean an Act passed by the Legislature of a State established or continued by the Constitution;

(38*c*) 'State Government' as respects anything done or to be done after the commencement of the Constitution, shall mean the Rajpramukh of the State of Mysore;]

(39) "Sub-section" shall mean a sub-section of the section in which the word occurs; "Sub-section."

(40) "Swear," with its grammatical variations and cognate expressions, shall include affirming and declaring in the case of persons by law allowed to affirm or declare instead of swearing; "Swear."

(41) "Will" shall include a codicil and every writing making a voluntary posthumous disposition of property; "Will."

(42) Expressions referring to "writing" shall be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form; and "Writing."

(43) "Year" shall mean a year reckoned according to the British calendar. "Year."

Application of foregoing definitions to previous enactments.

4. The definitions in section 3 of the following words and expressions, that is to say, "affidavit," "barrister," "Britisth India," [2][High Court] "District Judge," "father," "immoveable property," "imprisonment," "Magistrate," "month," "moveable property," "oath," "person," "section," "son," "swear," "will," and "year" apply also, unless there is anything repugnant in the subject or context, to all enactments made after the third day of January 1868.

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1. Inserted by Act 12 of 1953.
2. The words "High Court" were substituted for the words "Chief Court" by Act XII of 1930.

General Rules of Construction.

Coming into operation of enactments.

5. [1][(1) Where any Mysore Act is not expressed to come into operation on a particular day, then,

(i) in the case of a Mysore Act made before the commencement of the Constitution, it shall be deemed to have come into operation on the day on which it received the assent of the Maharaja;

(ii) in the case of a Mysore Act made after the commencement of the Constitution and before the commencement of the Mysore General Clauses (Amendment) Act, 1953, it shall be deemed to have come into operation on the day on which it received the assent of the Rajpramukh or the President, as the case may require;

(iii) in the case of a Mysore Act made after the commencement of the Mysore General Clauses (Amendment) Act, 1953, it shall come into operation on the day on which the assent thereto of the Rajpramukh or the President, as the case may require, is first published in the official Gazette.]

(2) Unless the contrary is expressed, an Act shall be construed as coming into operation immediately on the expiration of the day preceding its commencement.

[2][(3) In every Act referred to in clause (iii) of sub-section (1), the date of publication in the official Gazette shall be printed either above or below the title of the Act and shall form part of the Act.]

Effect of repeal.

6. Where this Act or [1][any Mysore Act] made after the commencement of this Act repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not—

(*a*) revive anything not in force or existing at the time at which the repeal takes effect; or

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1. Substituted by Act 12 of 1953.
2. Added by Act 12 of 1953.

(*b*) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder ; or

(*c*) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed ; or

(*d*) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed ; or

(*e*) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid ; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the repealing Act had not been passed.

Repeal of Act making textual amendment in an Act.

[1][**6A.** Where [2][any Mysore Act] made after the commencement of this Act repeals any enactment by which the text of any Act was amended by the express omission, insertion or substitution of any matter, then, unless a different intention appears, the repeal shall not affect the continuance of any such amendment made by the enactment so repealed and in operation at the time of such repeal.]

Revival of repealed enactments.

7. (1) In [2][any Mysore Act] made after the commencement of this Act, it shall be necessary, for the purpose of reviving, either wholly or partially, any enactment wholly or partially repealed, expressly to state that purpose.

(2) This section applies also to all enactments made after the third day of January 1868.

Construction of references to repealed enactments.

8. Where this Act, or [2][any Mysore Act] made after the commencement of this Act, repeals and re-enacts, with or without modification, any provision of a former enactment, then references in any other enactment or in any instrument to the provision so repealed, shall, unless a different intention appears, be construed as references to the provision so re-enacted.

1. Inserted by Act VII of 1949.
2. Substituted by Act 12 of 1953.

Commencement and termination of time.

9. (1) In [1][any Mysore Act] made after the commencement of this Act, it shall be sufficient, for the purpose of excluding the first in a series of days or any other period of time, to use the word "from," and, for the purpose of including the last in a series of days or any other period of time, to use the word "to."

(2) This section applies also to all enactments made after the third day of January 1868.

Computation of time.

10. Where, by [1][any Mysore Act] made after the commencement of this Act, any act or proceeding is directed or allowed to be done or taken in any court or office on a certain day or within a prescribed period, then, if the court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the court or office is open :

Provided that nothing in this section shall apply to any act or proceeding to which the [1][Indian Limitation Act, 1908] applies.

Measurement of distances.

11. In the measurement of any distance, for the purposes of [1][any Mysore Act] made after the commencement of this Act, that distance shall, unless a different intention appears, be measured in a straight line on a horizontal plane.

Duty to be taken *pro rata* in enactments.

12. Where, by any enactment now in force or hereafter to be in force, any duty of customs or excise, or in the nature thereof, is leviable on any given quantity, by weight, measure or value of any goods or merchandise, then a like duty is leviable according to the same rate on any greater or less quantity.

Gender and number.

13. In all enactments, unless there is anything repugnant in the subject or context,—

(1) words importing the masculine gender shall be taken to include females ; and

(2) words in the singular shall include the plural, and *vice versa*.

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1. Substituted by Act 12 of 1953.

Powers and Functionaries.

Powers conferred to be exercisable from time to time.

14. Where, by [1][any Mysore Act] made after the commencement of this Act, any power is conferred [2] * * * then that power may be exercised from time to time as occasion requires.

Power to appoint to include power to appoint *ex-officio*.

15. Where, by any enactment, a power to appoint any person, to fill any office or execute any function is conferred, then, unless it is otherwise expressly provided, any such appointment, if it is made after the commencement of this Act, may be made either by name or by virtue of office.

Power to appoint to include power to suspend or dismiss.

16. Where, by any enactment, a power to make any appointment is conferred, then, unless a different intention appears, the authority having [3][for the time being] power to make the appointment shall also have power to suspend or dismiss any [1][person appointed whether by itself or any other authority] in exercise of that power.

Substitution of functionaries.

17. (1) In [1][any Mysore Act] made after the commencement of this Act, it shall be sufficient, for the purpose of indicating the application of a law to every person or number of persons for the time being executing the functions of an office, to mention the official title of the officer at present executing the functions, or that of the officer by whom the functions are commonly executed.

(2) This section applies also to all enactments made after the third day of January 1868.

Successors.

18. (1) In [1][any Mysore Act] made after the commencement of this Act, it shall be sufficient, for the purpose of indicating the relation of a law to the successors of any functionaries or of corporations having perpetual succession to express its relation to the functionaries or corporations.

(2) This section applies also to all enactments made after the third day of January 1868.

Official chiefs and subordinates.

19. (1) In [1][any Mysore Act] made after the commencement of this Act, it shall be sufficient, for the purpose

1. Substituted by Act 12 of 1953.
2. The words "on the Government" omitted by Act 12 of 1953.
3. Inserted by Act 12 of 1953.

of expressing that a law relative to the chief or superior of an office shall apply to the deputies or subordinates lawfully performing the duties of that office in the place of their superior, to prescribe the duty of the superior.

(2) This section applies also to all enactments made after the third day of January 1868.

Provisions as to Orders, Rules, etc., made under Enactments.

Construction of orders, etc., issued under enactments.

20. Where, by any enactment, a power to issue any [1][notification], order, scheme, rule, form or bye-law is conferred, then expressions used in the [1][notification], order, scheme, rule, form or bye-law, if it is made after the commencement of this Act, shall, unless there is anything repugnant in the subject or context, have the same respective meanings as in the enactment conferring the power.

Power to make to include power to add to, amend, vary or rescind notifications, orders, rules or bye-laws.

21. Where, by any enactment, a power to [2][issue] [1][notifications], orders, rules or bye-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any), to add to, amend, vary or rescind any [1][notifications] orders, rules or bye-laws so [2][issued.]

Making of rules or bye-laws and issuing of orders between passing and commencement of enactment.

22. Where, by any enactment which is not to come into force immediately on the passing thereof, a power is conferred to make rules or bye-laws, or to issue orders with respect to the application of the enactment, or with respect to the establishment of any court or office or the appointment of any Judge or officer thereunder, or with respect to the person by whom, or the time when, or the place where, or the manner in which, or the fees for which anything is to be done under the enactment, then that power may be exercised at any time after the passing of the enactment; but rules, bye-laws or orders so made or issued shall not take effect till the commencement of the enactment.

Provisions applicable to making of rules or bye-laws after previous publication.

23. Where, by any enactment, a power to make rules or bye-laws is expressed to be given subject to the condition of the rules or bye-laws being made after previous

1. Inserted by Act 12 of 1953.
2. Substituted by Act 12 of 1953.

publication, then, the following provisions shall apply, namely :—

(1) the authority having power to make the rules or bye-laws shall, before making them, publish a draft of the proposed rules or bye-laws for the information of persons likely to be affected thereby ;

(2) the publication shall be made in such manner as that authority deems to be sufficient, or, if the condition with respect to previous publication so requires, in such manner as the Government prescribes ;

(3) there shall be published with the draft a notice specifying a date on or after which the draft will be taken into consideration ;

(4) the authority having power to make the rules or bye-laws, and, where the rules or bye-laws are to be made with the sanction, approval or concurrence of another authority, that authority also, shall consider any objection or suggestion which may be received by the authority having power to make the rules or bye-laws from any person with respect to the draft before the date so specified ;

(5) the publication in the Gazette of a rule or bye-law purporting to have been made in exercise of a power to make rules or bye-laws after previous publication shall be conclusive proof that the rule or bye-law has been duly made.

Continuation of orders, etc., issued under enactments repealed and re-enacted.

24. Where any enactment is, after the commencement of this Act, repealed and re-enacted with or without modification, then, unless it is otherwise expressly provided, any [1][appointment, notification,] order, scheme, rule, form or bye-law, [1][made or] issued under the repealed enactment, shall, so far as it is not inconsistent with the provisions re-enacted, continue in force and be deemed to have been [1][made or] issued under the provisions so re-enacted, unless and until it is superseded by any [1][appointment, notification,] order, scheme, rule, form or bye-law [1][made or] issued under the provisions so re-enacted.

1. Inserted by Act 12 of 1953.

Miscellaneous.

Recovery of fines.

25. Sections 63 to 70 of the Indian Penal Code and the provisions of the Code of Criminal Procedure for the time being in force in relation to the issue and the execution of warrants for the levy of fines shall apply to all fines imposed under any enactment, rule or bye-law, unless the enactment, rule or bye-law contains an express provision to the contrary.

Provision as to offences punishable under two or more enactments.

26. Where an act or omission constitutes an offence under two or more enactments, then the offender shall be liable to be prosecuted and punished under either or any of those enactments, but shall not be liable to be punished twice for the same offence.

Meaning of service by post.

27. Where [1][any Mysore Act] made after the commencement of this Act authorizes or requires any document to be served by post, whether the expression " serve " or either of the expressions " give " or " send " or any other expression is used, then, unless a different intention appears, the service shall be deemed to be effected by properly addressing, prepaying and posting by registered post, a letter containing the document, and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered in the ordinary course of post.

Citation of enactments.

28. (1) In any enactment, and in any rule, bye-law, instrument or document, made under, or with reference to, any enactment, any enactment may be cited by reference to the title or short title (if any) conferred thereon or by reference to the number and year thereof, and any provision in an enactment may be cited by reference to the section or sub-section of the enactment in which the provision is contained.

(2) In this Act and in [1][any Mysore Act] made after the commencement of this Act, a description or citation of a portion of another enactment shall, unless a different intention appears, be construed as including the

1. Substituted by Act 12 of 1953.

word, section or other part mentioned or referred to as forming the beginning and as forming the end of the portion comprised in the description or citation.

Saving for previous enactments, rules and bye-laws.

29. The provisions of this Act respecting the construction of enactments, rules, or bye-laws made after the commencement of this Act, shall not affect the construction of any enactment, rule or bye-law made before the commencement of this Act, although the enactment, rule or bye-law is continued or amended by an enactment, rule or bye-law made after the commencement of this Act.

Publication of orders and notification in the Official Gazette.

[1][**30.** Where in any Mysore Act, or in any Rule made under any Mysore Act, it is directed that any order, notification or other matter, shall be notified or published, such notification or publication shall, unless the Act otherwise provides, be deemed to be duly made if it is published in the Official Gazette.

Determination of the times at which Acts or provisions of Acts extended or applied by Government to certain places shall come into force.

31. When, by an Act, the Government is empowered to extend or apply an Act or any provision of an Act, to any place in, or to any portion of the State, the Government may, in any order extending or applying such Act or provision or in any subsequent order, notify the time at which the same shall come into force in the place or portion of the State to which it is so extended or applied; and unless it is otherwise provided in the Act, the Government may, by notification in the Official Gazette from time to time, postpone the time at which the Act or provision shall come into force in such place or portion of the State, or cancel the order for extending or applying the same to such place or portion of the State:

Provided that no order postponing the time at which an Act or provision shall come into force or cancelling the order for extending or applying the same shall be made after the Act or provision has actually come into force in the place or portion of the State to which such order relates.

Application of Act to Ordinances.

32. The provisions of this Act shall apply in relation to any Ordinance promulgated by the Rajpramukh under Article 213 of the Constitution in like manner as they

1. Sections 30, 31 and 32 substituted by Act 12 of 1953.

apply in relation to Mysore Acts made by the State Legislature :

Provided that sub-section (1) of section 5 of this Act shall apply to any such Ordinance as if the reference in that sub-section to the day of the first publication of the assent to an Act in the Official Gazette were a reference instead to the day of the first publication of the Ordinance in that Gazette.]

MYSORE ACT No. VI OF 1899.

[1] THE MYSORE DISEASED ANIMALS (DESTRUCTION AND SEGREGATION) ACT, 1899.

(PASSED ON THE 16TH DAY OF DECEMBER 1899.)

An act to provide for and regulate the destruction and segregation of stray dogs and of diseased horses and cattle.

Her Highness the Maharani-Regent is pleased to enact as follows :—

Government may make rules regarding the destruction or segregation of stray dogs and diseased horses and cattle;

1. (1) The Government may, from time to time, make rules to provide for and regulate the destruction or segregation of stray dogs, and of horses and cattle suffering from anthrax, glanders, rinderpest or any other such disease in any part of the [2][whole of the State of Mysore except Bellary District] [3][and to regulate the movement of dogs, horses and cattle from any local area which is so infected].

And impose penalties for breach of any rule.

(2) In making any such rule, the Government may direct that a breach of it shall be punishable with fine which may extend to fifty rupees, and, when the breach is a continuing breach, with a further fine which may extend to five rupees for every day after the first during which the breach continues.

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1. See Mysore Act VIII of 1949.
2. See the Mysore Adaptation of Laws Order, 1958.
3. Added by Act II of 1927.

THE MYSORE STAMP ACT, 1900.

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MYSORE ACT No. II OF 1900.

THE MYSORE STAMP ACT, 1900.

(AS AMENDED BY ACTS II OF 1908, IV OF 1916, VII OF 1922, I OF 1928, IV OF 1928, IX OF 1952, 9 OF 1953 AND 11 OF 1954.)

(*Passed on the 21st Day of April 1900.*)

An Act to Consolidate and Amend the Law relating to Stamps.

WHEREAS it is expedient to consolidate and amend the law relating to Stamps; it is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (1) This Act may be called the Mysore Stamp Act, 1900.

(2) It extends to the [1][whole of the State of Mysore except Bellary District.]

(3) It shall come into force on the first day of July 1900.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,—

Banker.

(1) "banker" includes a bank and any person acting as a banker;

(2) "bill of exchange" means an instrument in writing containing an unconditional order, signed by the maker, directing a certain person to pay a certain sum of money only to, or to the order of, a certain person, or to the bearer of the instrument, and includes also a hundi, and any other document entitling or purporting to entitle any person, whether named therein or not, to payment by any other person of, or to draw upon any other person for, any sum of money;

Bill of exchange payable on demand.

(3) "bill of exchange payable on demand" includes—

(*a*) an order for the payment of any sum of money by a bill of exchange or promissory note, or for the delivery of any bill of exchange or promissory note in satisfaction of any sum of money, or for the payment of any sum of money out of any particular fund which may

1. See the Mysore Adaptation of Laws Order, 1953.

or may not be available, or upon any condition or contingency which may or may not be performed or happen;

(*b*) an order for the payment of any sum of money weekly, monthly, or at any other stated periods; and

(*c*) a letter of credit, that is to say, any instrument by which one person authorizes another to give credit to the person in whose favour it is drawn;

Bill of lading.

(4) "bill of lading" includes a "through bill of lading," but does not include a mate's receipt;

Bond.

(5) "bond" includes—

(*a*) any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed or is not performed, as the case may be;

(*b*) any instrument attested by a witness and not payable to order or bearer, whereby a person obliges himself to pay money to another; and

(*c*) any instrument so attested, whereby a person obliges himself to deliver grain or other agricultural produce to another;

Chargeable.

(6) "chargeable" means, as applied to an instrument executed or first executed after the commencement of this Act, chargeable under this Act, and as applied to any other instrument chargeable under the law in force in Mysore when such instrument was executed or, where several persons executed the instrument at different times, first executed;

Cheque.

(7) "cheque" means a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand;

Chief Controlling Revenue authority.

(8) "Chief Controlling Revenue-authority" means the Government or such officer as the Government may, by notification in the official Gazette, appoint in this behalf;

Conveyance.

(9) "conveyance" includes a conveyance on sale and every instrument by which property, whether moveable, or immoveable is transferred *inter vivos* and which is not otherwise specifically provided for by Schedule I [1] [or by Schedule I-A., as the case may be];

1. Added by Act VII of 1922.

(10) "Deputy Commissioner" — Deputy Commissioner.
(*a*) means the Deputy Commissioner of a district, and
(*b*) includes any officer whom the Government may, by notification in the official Gazette, appoint in this behalf;

(11) "duly stamped," as applied to an instrument means that the instrument bears an adhesive or impressed stamp of not less than the proper amount and that such stamp has been affixed or used in accordance with the law for the time being in force in Mysore; — Duly stamped.

(12) "executed," and "execution," used with reference to instruments, mean "signed" and "signature"; — Executed and execution.

(13) "impressed stamp" includes— — Impressed stamp.
(*a*) labels affixed and impressed by the proper officer, and
(*b*) stamps embossed or engraved on stamped paper;

(14) "instrument" includes every document by which any right or liability is, or purports to be, created, transferred, limited, extended, extinguished or recorded; — Instrument.

(15) "instrument of partition" means any instrument whereby co-owners of any property divide or agree to divide such property in severalty, and includes also a final order for effecting a partition passed by any Revenue authority or any Civil Court and an award by an arbitrator directing a partition; — Instrument of partition.

(16) "lease" means a lease of immoveable property, and includes also— — Lease.
(*a*) a patta;
(*b*) a kabuliyat or other undertaking in writing not being a counterpart of a lease to cultivate, occupy, or pay or deliver rent for, immoveable property;
(*c*) any instrument by which tools of any description are let;
(*d*) any writing on an application for a lease intended to signify that the application is granted;

[1] [16A. "Marketable security" means a security of such a description as to be capable of being sold — Marketable security.

1. Inserted by Act II of 1908.

in any stock market in British India or in the United Kingdom or in Mysore ;]

Mortgage deed.

(17) "mortgage deed" includes every instrument whereby, for the purpose of securing money advanced, or to be advanced, by way of loan, or an existing or future debt, or the performance of an engagement, one person transfers, or creates, to or in favour of, another, a right over or in respect of specified property ;

Paper.

(18) "paper" includes vellum, parchment or any other material on which an instrument may be written ;

Policy of insurance.

(19) "policy of insurance" includes—

(*a*) any instrument by which one person, in consideration of a premium, engages to indemnify another against loss, damage or liability arising from an unknown or contingent event ;

(*b*) a life-policy, and any policy insuring any person against accident or sickness, and any other personal insurance ;

1* * * *

Policy of sea-insurance or sea-policy.

(20) "policy of sea-insurance" or "sea-policy"—

(*a*) means any insurance made upon any ship or vessel (whether for marine or inland navigation), or upon the machinery, tackle or furniture of any ship or vessel, or upon any goods, merchandise or property of any description whatever on board of any ship or vessel, or upon the freight of or any other interest which may be lawfully insured in, or relating to, any ship or vessel, and

(*b*) includes any insurance of goods, merchandise or property for any transit which includes, not only a sea risk within the meaning of clause (*a*), but also any other risk incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance :

Where any person, in consideration of any sum of money paid or to be paid for additional freight or otherwise, agrees to take upon himself any risk attending goods, merchandise or property of any description whatever while on board of

1. Sub-clause (c) of definition 19 and the word 'and' prefixed thereto were repealed by Act II of 1908.

any ship or vessel, or engages to indemnify the owner of any such goods, merchandise or property from any risk, loss or damage, such agreement or engagement shall be deemed to be a contract for sea-insurance ;

(21) "power-of-attorney" includes any instrument (not chargeable with a fee under the law relating to Court fees for the time being in force) empowering a specified person to act for and in the name of the person executing it ; Power-of-attorney.

(22) "promissory note" means an instrument in writing (not being a bank note or a currency note) containing an unconditional undertaking, signed by the maker, to pay a certain sum of money only to, or to the order of, a certain person, or to the bearer of the instrument ; Promissory note.

it also includes a note promising the payment of any sum of money out of any particular fund which may or may not be available, or upon any condition or contingency which may or may not be performed or happen ;

(23) "receipt" includes any note, memorandum or writing— Receipt.

(*a*) whereby any money, or any bill of exchange, cheque or promissory note is acknowledged to have been received, or

(*b*) whereby any other moveable property is acknowledged to have been received in satisfaction of a debt, or

(*c*) whereby any debt, or demand or any part of a debt or demand, is acknowledged to have been satisfied or discharged, or

(*d*) which signifies or imports any such acknowledgment, and whether the same is or is not signed with the name of any person ; and

(24) "settlement" means any non-testamentary disposition, in writing, of moveable or immoveable property made— Settlement.

(*a*) in consideration of marriage,

(*b*) for the purpose of distributing property of the settler among his family or those for whom he desires to provide, or for the purpose of providing for some person dependent on him, or

(*c*) for any religious or charitable purpose ;

and includes an agreement in writing to make such

a disposition, [1] [and where any such disposition has not been made in writing, any instrument recording whether by way of declaration, of trust or otherwise, the terms of any such disposition.]

CHAPTER II.

STAMP-DUTIES.

A.—Of the Liability of Instruments to Duty.

Instruments chargeable with duty.

3. Subject to the provisions of this Act and the exemptions contained in Schedule I, the following instruments shall be chargeable with duty of the amount indicated in that schedule as the proper duty therefor, respectively, that is to say—

(*a*) every instrument mentioned in that schedule which, not having been previously executed by any person, is executed in Mysore on or after the first day of July 1900 ;

(*b*) every bill of exchange, [2][payable otherwise than on demand] or promissory note drawn or made out of Mysore on or after that day and accepted or paid, or presented for acceptance or payment, or endorsed, transferred or otherwise negotiated, in Mysore ; and

(*c*) every instrument (other than a bill of exchange[3] or promissory note) mentioned in that schedule, which, not having been previously executed by any person, is executed out of Mysore on or after that day, relates to any property situate, or to any matter or thing done or to be done, in Mysore and is received in Mysore :

[4][(*a*) Provided that, except as otherwise expressly provided in this Act, and notwithstanding anything contained in clause (*a*) or (*c*) of this section or in Schedule I, the amount indicated in Schedule I-A shall, subject to the exemptions contained in that schedule, be the duty chargeable on the following instruments :—

(*aa*) every instrument mentioned in Schedule I-A as chargeable with duty under that schedule, which, not having been previously executed by any person, is executed in Mysore on or after the first day of February 1923 ;

1. Added by Act II of 1908.
2 The word "Cheque" was omitted and these words were added by Act 1 of 1928.
3. The word 'Cheque' was omitted by Act I of 1928.
4. Added by Act VII of 1922.

(*bb*) every instrument mentioned in Schedule I-A as chargeable with duty under that schedule, which, not having been previously executed by any person, is executed out of Mysore on or after the first day of February 1923 and relates to any property situated or to any matter or thing done or to be done in Mysore and is received in Mysore.]

Provided [1][also] that no duty shall be chargeable in respect of any instrument, executed by, or on behalf of, or in favour of, the Government in cases where, but for this exemption, the Government would be liable to pay the duty chargeable in respect of such instrument.

Several instruments used in single transaction of sale, mortgage or settlement.

4. (1) Where, in the case of any sale, mortgage or settlement, several instruments are employed for completing the transaction, the principal instrument only shall be chargeable with the duty prescribed in Schedule I, [1][or in Schedule I-A as the case may be] for the conveyance, mortgage, or settlement, and each of the other instruments shall be chargeable with a duty of one rupee (or [1][two rupees eight annas] instead of the duty (if any) prescribed for it in [2][Schedule I or in Schedule I-A as the case may be.]

(2) The parties may determine for themselves which of the instruments so employed shall, for the purposes of sub-section (1), be deemed to be the principal instrument:

Provided that the duty chargeable on the instrument so determined shall be the highest duty which would be chargeable in respect of any of the said instruments employed.

Instruments relating to several distinct matters.

5. Any instrument comprising or relating to several distinct matters shall be chargeable with the aggregate amount of the duties with which separate instruments, each comprising or relating to one of such matters, would be chargeable under this Act.

Instruments coming within several descriptions in Schedule I.

6. Subject to the provisions of the last preceding section, an instrument so framed as to come within two or more of the descriptions in Schedule I, [2][or in Schedule I-A as the case may be] shall, where the duties chargeable thereunder are different, be chargeable only with the highest of such duties:

Provided that nothing in this Act contained shall render chargeable with duty exceeding one rupee or [1][two

1. Substituted by Act 11 of 1954.
2. Added by Act VII of 1922.

rupees eight annas] a counter-part or duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid.

Policies of sea-insurancer.

7. (1) No contract for sea-insurance other than such insurance as is referred to in Section 506 of the Merchant Shipping Act 1894, shall be valid unless the same is expressed in a sea-policy.

(2) No sea-policy made for time shall be made for any time exceeding twelve months.

(3) No sea-policy shall be valid unless it specifies the particular risk or adventure, or the time, for which it is made, the names of the subscribers or underwriters, and the amount or amounts insured.

(4) Where any sea-insurance is made for or upon a voyage and also for time, or to extend to or cover any time beyond thirty days after the ship shall have arrived at her destination and been there moored at anchor, the policy shall be charged with a duty as a policy for or upon a voyage, and also with duty as a policy for time.

Bonds, debentures or other securities issued on loans.

8. (1) Notwithstanding anything in this Act, any local authority raising a loan under the provisions of any law for the time being in force, by the issue of bonds, debentures or other securities, shall, in respect of such loan, be chargeable with a duty of eight annas per centum on the total amount of the bonds, debentures or other securities issued by it, and such bonds, debentures or other securities need not be stamped and shall not be chargeable with any further duty on renewal, consolidation, sub-division or otherwise.

(2) The provisions of sub-section (1) exempting certain bonds, debentures or other securities from being stamped and from being chargeable with certain further duty shall apply to the bonds, debentures or other securities of all outstanding loans of the kind mentioned therein, and all such bonds, debentures or other securities shall be valid, whether the same are stamped or not.

(3) In the case of wilful neglect to pay the duty required by this section, the local authority shall be liable to forfeit to the Government a sum equal to ten per centum upon the amount of duty payble, and a like penalty for every month after the first month during which the neglect continues.

Power to reduce, remit or compound duties.

9. The Government may, by rule or order published in the official Gazette,—

(*a*) reduce or remit, whether prospectively, or retrospectively, in the whole or any part of Mysore,

(Chapter II—Of Stamps—mode of use.)

the duties with which any instruments or any particular class of instruments, or any of the instruments belonging to such class, or any instruments when executed by or in favour of any particular class or person, or by or in favour of any members of such class, are chargeable ; and

(*b*) provide for the composition or consolidation of duties in the case of issues by any incorporated company or other body corporate of debentures, bonds or other marketable securities.

B.—Of Stamps and the mode of using them.

Duties how to be paid.

10. (1) Except as otherwise expressly provided in this Act, all duties with which any instruments are chargeable shall be paid, and such payment shall be indicated on such instruments, by means of stamps—

(*a*) according to the provision herein contained ; or,

(*b*) when no such provision is applicable thereto—as the Government may by rule direct.

(2) The rules made under sub-section (1) may, among other matters, regulate,—

(*a*) in the case of each kind of instrument—the description of stamps which may be used ;

(*b*) in the case of instruments stamped with impressed stamps—the number of stamps which may be used ;

(*c*) in the case of bills of exchange or promissory notes written in any Oriental language—the size of the paper on which they are written.

Use of adhesive stamps.

11. The following instruments may be stamped with adhesive stamps, namely :—

(*a*) instruments chargeable with the duty of one anna [1][or half an anna] except parts of bills of exchange payable otherwise than on demand and drawn in sets ;

(*b*) bills of exchange,[2] and promissory notes drawn or made out of Mysore ;

(*c*) entry as an advocate on the roll of the [3][High Court ;]

(*d*) notarial acts ; and

(*e*) transfers by endorsement of shares in any incorporated company or other body corporate.

1. Inserted by Act II of 1908.
2. The word 'cheques' was omitted by Act I of 1928.
3. Substituted by Act XII of 1930.

(Chapter II—Of Stamps—mode of use.)

Cancellation of adhesive stamps.

12. (1) (*a*) Whoever affixes any adhesive stamp to any instrument chargeable with duty which has been executed by any person shall, when affixing such stamp, cancel the same so that it cannot be used again ; and

(*b*) Whoever executes any instrument on any paper bearing an adhesive stamp shall, at the time of execution, unless such stamp has been already cancelled in manner aforesaid, cancel the same so that it cannot be used again.

(2) Any instrument bearing an adhesive stamp which has not been cancelled so that it cannot be used again shall, so far as such stamp is concerned be deemed to be unstamped.

(3) The person required by sub-section (1) to cancel an adhesive stamp may cancel it by writing on or across the stamp his name or initials or the name or initials of his firm with the true date of his so writing or in any other effectual manner.

Instruments stamped with impressed stamps how to be written.

13. Every instrument written upon paper stamped with an impressed stamp shall be written in such manner that the stamp may appear on the face of the instrument and cannot be used for or applied to any other instrument.

Only one instrument to be on same stamp.

14. No second instrument chargeable with duty shall be written upon a piece of stamped paper upon which an instrument chargeable with duty has already been written :

Provided that nothing in this section shall prevent any endorsement which is duly stamped or is not chargeable with duty being made upon any instrument for the purpose of transferring any right created or evidenced thereby, or of acknowledging the receipt of any money or goods the payment or delivery of which is secured thereby.

Instruments written contrary to section 13 or 14 deemed unstamped.

15. Every instrument written in contravention of section 13 or section 14 shall be deemed to be unstamped.

Denoting duty.

16. Where the duty with which an instrument is chargeable, or its exemption from duty, depends in any manner upon the duty actually paid in respect of another instrument, the payment of such last mentioned duty shall, if application is made in writing to the Deputy Commissioner for that purpose, and on production of both the instruments be denoted upon such first mentioned

instrument by endorsement under the hand of the Deputy Commissioner or in such other manner, if any, as the Government may by rule prescribe.

C.—Of the time of Stamping Instruments.

Instruments executed in [1][the State of Mysore except Bellary District].

17. All instruments chargeable with duty and executed by any person in [1][the State of Mysore except Bellary District] shall be stamped before or at the time of execution.

Instruments other than bills, cheques and notes executed out of [1][the State of Mysore except Bellary District].

18. (1) Every instrument chargeable with duty executed only out of [1][the State of Mysore except Bellary District] and not being a bill of exchange[3] or promissory note may be stamped within three months after it has been first received in [1][the State of Mysore except Bellary District.]

(2) Where any such instrument cannot, with reference to the description of stamp, prescribed therefor, be duly stamped by a private person, it may be taken within the said period of three months to the Deputy Commissioner, who shall stamp the same, in such manner as the Government may by rule prescribe, with a stamp of such value as the person so taking such instrument may require and pay for.

Bills, cheques and notes drawn out of [1][the State of Mysore except Bellary District].

19. The first holder in [1][the State of Mysore except Bellary District] of any bill of exchange [2][payable otherwise than on demand][3] or promissory note drawn or made out of [1][the State of Mysore except Bellary District] shall, before he presents the same for acceptance or payment, or endorses, transfers or otherwise negotiates the same in [1][the State of Mysore except Bellary District] affix thereto the proper stamp and cancel the same:

Provided that,—

(*a*) if, at the time any such bill of exchange,[3] or note comes into the hands of any holder thereof in [1][the State of Mysore except Bellary District] the proper adhesive stamp is affixed thereto and cancelled in manner prescribed by section 12 and such holder has no reason to believe that such stamp was affixed or cancelled otherwise than by the person and at the time required by this Act such stamp shall, so far as relates to such holder, be deemed to have been duly affixed and cancelled.

1. *See* the Mysore Adaptation of Laws Order, 1956.
2. Added by Act I of 1928.
3. The word 'cheque' was omitted by Act I of 1928

(*b*) Nothing contained in this proviso shall relieve any person from any penalty incurred by him for omitting to affix or cancel a stamp.

D.—Of Valuations for Duty.

Conversion of amount expressed in foreign currencies.

20. (1) Where an instrument is chargeable with *ad valorem* duty in respect of any money expressed in any currency other than that of Mysore, such duty shall be calculated on the value of such money in the currency of Mysore according to the current rate of exchange on the day of the date of the instrument.

(2) The Government may from time to time, by notification in the official Gazette, prescribe a rate of exchange for the conversion of any foreign currency into the currency of Mysore for the purposes of calculating stamp-duty, and such rate shall be deemed to be the current rate for the purposes of sub-section (1).

Stock and marketable securities how to be valued.

21. Where an instrument is chargeable with *ad valorem* duty in respect of any stock or of any marketable or other security, such duty shall be calculated on the value of such stock or security according to the average price or the value thereof on the day of the date of the instrument.

Effect of statement of rate of exchange or average price.

22. Where an instrument contains a statement of current rate of exchange, or average price, as the case may require, and is stamped in accordance with such statement, it shall, so far as regards the subject matter of such statement, be presumed, until the contrary is proved, to be duly stamped.

Instruments reserving interest.

23. Where interest is expressly made payable by the terms of an instrument, such instrument shall not be chargeable with duty higher than that with which it would have been chargeable had no mention of interest been made therein.

Certain instruments connected with mortgages of marketable securities to be chargeable as agreements.

[1] **[23A.** (1) Where an instrument (not being a promissory note or bill of exchange),

(*a*) is given upon the occasion of the deposit of any marketable security by way of security for money advanced or to be advanced by way of loan, or for an existing or future debt; or

1. Section 23-A inserted by Act II of 1908.

(*b*) makes redeemable or qualifies a duly stamped transfer, intended as a security, of any marketable security,

it shall be chargeable with duty as if it were an agreement or memorandum of an agreement chargeable with duty under Article No. 5 (*b*) of Schedule I, [1][or Article No. 4 (*c*) of Schedule I-A, as the case may be.]

(2) A release or discharge of any such instrument shall be chargeable with the like duty.

How transfer in consideration of debt, or subject to future payment, etc., to be charged.

24. Where any property is transferred to any person in consideration, wholly or in part, of any debt to him, or subject either certainly or contingently to the payment or transfer of any money or stock, whether being or constituting a charge or incumbrance upon the property or not, such debt, money or stock is to be deemed the whole or part, as the case may be, of the consideration in respect whereof the transfer is chargeable with *ad valorem* duty:

Provided that nothing in this section shall apply to any such certificate of sale as is mentioned in Article No. 17 of Schedule I, [1][or Article 15 of Schedule I-A, as the case may be.]

Explanation.—In the case of a sale of property subject to a mortgage or other incumbrance, any unpaid mortgage money or money charged, together with the interest (if any) due on the same, shall be deemed to be part of the consideration for the sale:

Provided that, where property subject to a mortgage is transferred to the mortgagee, he shall be entitled to deduct from the duty payable on the transfer the amount of any duty already paid in respect of the mortgage.

Illustrations.

(1) A owes B Rs. 1,000. A sells a property to B the consideration being Rs. 500 and the release of the previous debt of Rs. 1,000. Stamp-duty is payable on Rs. 1,500.

(2) A sells a property to B for Rs. 500 which is subject to a mortgage to C for Rs. 1,000 and unpaid interest Rs. 200. Stamp-duty is payable on Rs. 1,700.

1. Added by Act VII of 1922.

(3) A mortgages a house of the value of Rs. 10,000 to B for Rs. 5,000. B afterwards buys the house from A. Stamp-duty is payable on Rs. 10,000 less the amount of stamp-duty already paid for the mortgage.

Valuation in case of annuity, etc.

25. Where an instrument is executed to secure the payment of annuity or other sum payable periodically, or where the consideration for a conveyance is an annuity or other sum payable periodically, the amount secured by such instrument or the consideration for such conveyance, as the case may be, shall, for the purposes of this Act be deemed to be,—

(*a*) where the sum is payable for a definite period so that the total amount to be paid can be previously ascertained—such total amount;

(*b*) where the sum is payable in perpetuity or for an indefinite time not terminable with any life in being at the date of such instrument or conveyance—the total amount which, according to the terms of such instrument or conveyance will or may be payable during the period of twenty years calculated from the date on which the first payment becomes due; and

(*c*) where the sum is payable for an indefinite time terminable with any life in being at the date of such instrument or conveyance—the maximum amount which will or may be payable as aforesaid during the period of twelve years calculated from the date on which the first payment becomes due.

Stamp where value of subject-matter is indeterminate.

26. Where the amount or value of the subject-matter of any instrument chargeable with *ad valorem* duty cannot be, or (in the case of an instrument executed before the commencement of this Act) could not have been, ascertained at the date of its execution, or first execution, nothing shall be claimable under such instrument more than the highest amount or value for which, if stated in an instrument of the same description, the stamp actually used would, at the date of such execution, have been sufficient:

[1][Provided that, in the case of the lease of a mine in which royalty or a share of the produce is received as the rent, or the part of the rent, it shall be

1. Substituted by Act II of 1905.

sufficient to have estimated such royalty or the value of such share, for the purpose of stamp duty;—

(*a*) when the lease has been granted by or on behalf of the Government, at such amount or value as the Deputy Commissioner may, having regard to all the circumstances of the case, have estimated as likely to be payable by way of royalty or share to the Government under the lease, or

(*b*) when the lease has been granted by any other person, at twenty thousand rupees a year ; and the whole amount of such royalty share, whatever it may be shall be claimable under such lease.]

Provided also that, where proceedings have been taken in respect of any instrument under section 31 or 41, the amount certified by the Deputy Commissioner shall be deemed to be the stamp actually used at the date of execution.

Facts affecting duty to be set forth in instrument.

27. The consideration (if any) and all other facts and circumstances affecting the chargeability of any instrument with duty, or the amount of the duty with which it is chargeable shall be fully and truly set forth therein.

Direction as to duty in case of certain conveyances.

28. (1) Where any property has been contracted to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts by different instruments, the consideration shall be apportioned in such manner as the parties think fit, provided that a distinct consideration for each separate part is set forth in the conveyance relating thereto, and such conveyance shall be chargeable with *ad valorem* duty in respect of such distinct consideration.

(2) Where property contracted to be purchased for one consideration for the whole, by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts by separate instruments to the persons by or for whom the same was purchased, for distinct parts of the consideration, the conveyance of each separate part shall be chargeable with *ad valorem* duty in respect of the distinct part of the consideration therein specified.

(3) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof contracts to sell the same to any other

person and the property is in consequence conveyed immediately to the sub-purchaser, the conveyance shall be chargeable with *ad valorem* duty in respect of the consideration for the sale by the original purchaser to the sub-purchaser.

(4) Where a person, having contracted for the purchase of any property but not having obtained a conveyance thereof, contracts to sell the whole or any part thereof to any other person or persons and the property is in consequence conveyed by the original seller to different persons in parts, the conveyance of each part sold to a sub-purchaser shall be chargeable with *ad valorem* duty in respect only of the consideration paid by such sub-purchaser without regard to the amount or value of the original consideration ; and the conveyance of the residue (if any) of such property to the original purchaser shall be chargeable with *ad valorem* duty in respect only of the excess of the original consideration over the aggregate of the considerations paid by the sub-purchasers :

Provided that the duty on such last mentioned conveyance shall in no case be less than one rupee.

(5) Where a sub-purchaser takes an actual conveyance of the interest of the person immediately selling to him, which is chargeable with *ad valorem* duty in respect of the consideration paid by him and is duly stamped accordingly, any conveyance to be afterwards made to him of the same property by the original seller shall be chargeable with a duty equal to that which would be chargeable on a conveyance for the consideration obtained by such original seller, or where such duty would exceed five rupees, with a duty of five rupees.

E.—Duty by whom payable.

Duties by whom payable.

29. In the absence of an agreement to the contrary the expense of providing the proper stamp shall be borne,—

(*a*) in the case of any instrument described in any of the following Articles of Schedule I [1][or the corresponding Articles of Schedule I-A, as the case may be,] namely :—

No. 2 (Administration Bond),

1. Inserted by Act VII of 1922.

(*Chapter II—Duty by whom payable.*)

[1][No. 6. (Agreement relating to deposit of title deeds, pawn or pledge),]

No. 12. (Bill of exchange).

No. 14. (Bond),

No. 15. (Bottomry Bond),

No. 25. (Customs Bond),

No. 26. (Debenture),

No. 30. (Further Charge),

No. 32. (Indemnity Bond),

No. 38. (Mortgage Deed),

No. 47. (Promissory Note),

No. 53. (Release),

No. 54. (Respondentia Bond),

No. 55. (Security Bond or Mortgage deed).

No. 56. (Settlement),

No. 60. (*a*) (Transfer of shares in an incorporated company or other body corporate),

No. 60. (*b*) (Transfer of Debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8),

No. 60. (*c*) (Transfer of any interest secured by a bond, mortgage-deed or policy of insurance,—

by the person drawing, making or executing such instrument:

(*b*) in the case of policy of insurance [2][other than fire insurance]—by the person effecting the insurance:

[2][(*bb*) In the case of a policy of fire-insurance—by the person insuring the policy;]

(*c*) in the case of a conveyance (including a re-conveyance of mortgaged property) by the grantee: in the case of a lease or agreement to lease—by the lessee or intended lessee:

(*d*) in the case of a counterpart of lease—by the lessor:

(*e*) in the case of an instrument of exchange–by the parties in equal shares:

1. Substituted by Act II of 1908.
2. Inserted by Act II of 1908.

(*f*) in the case of a certificate of sale—by the purchaser of the property to which such certificate relates; and

(*g*) in the case of an instrument of partition—by the parties thereto in proportion to their respective shares in the whole property partitioned, or, when the partition is made in execution of an order passed by a Revenue authority or Civil Court or arbitrator, in such proportion as such authority, Court or arbitrator directs.

Obligation to give receipt in certain cases.

30. Any person receiving any money exceeding twenty rupees in amount, or any bill of exchange, cheque or promissory note for an amount exceeding twenty rupees, or receiving in satisfaction or part satisfaction of a debt any moveable property exceeding twenty rupees in value, shall, on demand by the person paying or delivering such money, bill, cheque, note or property, give a duly stamped receipt for the same.

[1][Any person receiving or taking credit for any premium or consideration for any renewal of any contract of fire insurance shall within one month after receiving or taking credit for such premium or consideration, give a duly stamped receipt for the same.]

CHAPTER III.

Adjudication as to Stamps.

Adjudication as to proper stamp.

31. (1) When any instrument, whether executed or not and whether previously stamped or not is brought to the Deputy Commissioner, and the person bringing it applies to have the opinion of that officer as to the duty (if any) with which it is chargeable, and pays a fee of such amount (not exceeding five rupees and not less than eight annas) as the Deputy Commissioner may in each case direct, the Deputy Commissioner shall determine the duty (if any) with which, in his judgment, the instrument is chargeable.

(2) For this purpose the Deputy Commissioner may require to be furnished with an abstract of the instrument, and also with such affidavit or other evidence as he may deem necessary to prove that all the facts and

1. Added by Act II of 1908.

circumstances affecting the chargeability of the instrument with duty, or the amount of the duty with which it is chargeable, or fully and truly set forth therein, and may refuse to proceed upon any such application, until such abstract and evidence have been furnished accordingly:

Provided that—

(*a*) no evidence furnished in pursuance of this section shall be used against any person in any civil proceeding except in any enquiry as to the duty with which the instrument to which it relates is chargeable; and

(*b*) every person by whom any such evidence is furnished, shall, on payment of the full duty with which the instrument to which it relates, is chargeable, be relieved from any penalty which he may have incurred under this Act by reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid.

Certificate by Deputy Commissioner.

32. (1) When an instrument brought to the Deputy Commissioner under section 31, is in his opinion, one of a description chargeable with duty, and

(*a*) the Deputy Commissioner determines that it is already fully stamped, or

(*b*) the duty determined by the Deputy Commissioner under section 31, or such a sum as, with the duty already paid in respect of the instrument, is equal to the duty so determined, has been paid,

the Deputy Commissioner shall certify by endorsement on such instrument that the full duty (stating the amount) with which it is chargeable has been paid.

(2) When such instrument is, in his opinion, not chargeable with duty, the Deputy Commissioner shall certify in manner aforesaid that such instrument is not so chargeable.

(3) Any instrument upon which an endorsement has been made under this section shall be deemed to be duly stamped or not chargeable with duty, as the case may be; and, if chargeable with duty, shall be receivable in evidence or otherwise, and may be acted upon and registered as if it had been originally duly stamped;

(*Chapter IV—Instruments not stamped.*)

Provided that nothing in this section shall authorise the Deputy Commissioner to endorse—

(*a*) any instrument executed or first executed in Mysore and brought to him after the expiration of one month from the date of its execution, or first execution, as the case may be;

(*b*) any instrument executed or first executed out of Mysore and brought to him after the expiration of three months after it has been first received in Mysore; or

(*c*) any instrument chargeable with the duty of one anna, [1][(or half an anna)] [2][or a mortgage of crop [Article 32 (*a*) of schedule I A] chargeable under clauses, (*aa*) or (*bb*) of section 3 with a duty of two annas] or any bill of exchange or promissory note, when brought to him, after the drawing or execution thereof, on paper not duly stamped.

CHAPTER IV.

INSTRUMENTS NOT DULY STAMPED.

Examination and impounding of instruments.

33. (1) Every person having by law or consent of parties authority to receive evidence, and every person in charge of a public office, except an officer of police, before whom any instrument, chargeable in his opinion, with duty, is produced or comes in the performance of his functions, shall, if it appears to him that such instrument is not duly stamped, impound the same.

(2) For that purpose every such person shall examine every instrument so chargeable and so produced or coming before him, in order to ascertain whether it is stamped with a stamp of the value and description required by the law in force in [3][the State of Mysore except Bellary District] when such instrument was executed or first executed:

Provided that—

(*a*) nothing herein contained shall be deemed to require any Magistrate or Judge of a Criminal Court to examine or impound, if he does not think fit so to do, any instrument coming before him in the course of any proceeding other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure;

1. Inserted by Act II of 1908.
2. Inserted by Act VII of 1922.
3. *See* the Mysore adaptation of Laws Order, 1963.

(*b*) in the case of a Judge of the [1][High Court], the duty of examining and impounding any instrument under this section may be delegated to such officer as the Court appoints in this behalf.

(3) For the purposes of this section, in cases of doubt, the Government may determine

(*a*) what offices shall be deemed to be public offices; and

(*b*) who shall be deemed to be persons in charge of public offices.

Special provision as to unstamped receipts.

34. Where any receipt chargeable with a duty of one anna is tendered to or produced before any officer unstamped in the course of the audit of any public account, such officer may in his discretion, instead of impounding the instrument, require a duly stamped receipt to be substituted therefor.

Instruments not duly stamped inadmissible in evidence, etc.

35. No instrument chargeable with duty shall be admitted in evidence for any purpose by any person having by law or consent of parties authority to receive evidence, or shall be acted upon, registered or authenticated by any such person or by any public officer, unless such instrument is duly stamped:

Provided that—

(*a*) any such instrument not being an instrument chargeable with a duty of one anna [2][or half an anna] only, [3][or a mortgage of crop Article 32 (*a*) of schedule I-A] chargeable under clauses (*aa*) or (*bb*) of section 3 with a duty of two annas] or a bill of exchange or promissory note, shall, subject to all just exceptions, be admitted in evidence on payment of the duty with which the same is chargeable, or, in the case of an instrument insufficiently stamped, of the amount required to make up such duty, together with a penalty of five rupees, or, when ten times the amount of the proper duty or deficient portion thereof exceeds five rupees, of a sum equal to ten times such duty or portion;

(*b*) where any person from whom a stamped receipt could have been demanded, has given an unstamped receipt and such receipt, if stamped, would be admissible in evidence against him, then such receipt shall be admitted in evidence against

1. Substituted by Act XII of 1930.
2. Inserted by Act II of 1908.
3. Inserted by Act VII of 1922.

him, on payment of a penalty of one rupee by the person tendering it;

(*c*) where a contract or agreement of any kind is effected by correspondence consisting of two or more letters and any one of the letters bears the proper stamp the contract or agreement shall be deemed to be duly stamped;

(*d*) nothing herein contained shall prevent the admission of any instrument in evidence in any proceeding in a Criminal Court, other than a proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure;

(*e*) nothing herein contained shall prevent the admission of any instrument in any Court when such instrument has been executed by or on behalf of the Government, or where it bears the certificate of the Deputy Commissioner as provided by section 32 or any other provision of this Act.

Admission of instrument where not to be questioned.

36. Where an instrument has been admitted in evidence, such admission shall not, except as provided in section 61, be called in question at any stage of the same suit or proceeding on the ground that the instrument has not been duly stamped.

Admission of improperly stamped instruments.

37. The Government may make rules providing that, where an instrument bears a stamp of sufficient amount but of improper description, it may, on payment of the duty with which the same is chargeable, be certified to be duly stamped, and any instrument so certified shall then be deemed to have been duly stamped as from the date of its execution.

Instruments impounded how dealt with.

38. (1) When the person impounding an instrument under section 33 has by law or consent of parties authority to receive evidence and admits such instrument in evidence upon payment of a penalty as provided by section 35 or of duty as provided by section 37, he shall send to the Deputy Commissioner an authenticated copy of such instrument, together with a certificate in writing, stating the amount of duty and penalty levied in respect thereof, and shall send such amount to the Deputy Commissioner, or to such person as he may appoint in this behalf.

(2) In every other case, the person so impounding an instrument shall send it in original to the Deputy Commissioner.

(*Chapter IV—Instruments not stamped.*)

Deputy Commissioner's power to refund penalty paid under section 38, sub-section (1).

39. (1) When a copy of an instrument is sent to the Deputy Commissioner under section 38, sub-section (1), he may, if he thinks fit, upon application made to him in this behalf or, if no application is made, with the consent of the Chief Controlling Revenue authority, refund any portion of the penalty in excess of five rupees which has been paid in respect of such instrument.

(2) When such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Deputy Commissioner may refund the whole penalty so paid.

Deputy Commissioner's power to stamp instruments impounded.

40. (1) When the Deputy Commissioner impounds any instrument under section 33, or receives any instrument sent to him under section 38, sub-section (2), not being an instrument chargeable with a duty of one anna [1][or half an anna] only [2][or a mortgage of crop (Article 32(*a*) of Schedule I-A) chargeable under clause, (*aa*) or (*bb*) of section 3 with a duty of two annas] or a bill of exchange or promissory note, he shall adopt the following procedure:-

(*a*) if he is of opinion that such instrument is duly stamped, or is not chargeable with duty, he shall certify by endorsement thereon that it is duly stamped, or that it is not so chargeable, as the case may be;

(*b*) if he is of opinion that such instrument is chargeable with duty and is not duly stamped, he shall require the payment of the proper duty or the amount required to make up the same, together with a penalty of five rupees; or, if he thinks fit, [1][an amount not exceeding] ten times the amount of the proper duty or of the deficient portion thereof, whether such amount exceeds or falls short of five rupees:

Provided that, when such instrument has been impounded only because it has been written in contravention of section 13 or section 14, the Deputy Commissioner may, if he thinks fit, remit the whole penalty prescribed by this section.

(2) Every certificate under clause (*a*) of sub-section (1) shall, for the purposes of this Act be conclusive evidence of the matters stated therein.

(3) Where an instrument has been sent to the Deputy Commissioner under section 38, sub-section (2), the

1. Inserted by Act II of 1908.
2. Inserted by Act VII of 1922.

Deputy Commissioner shall, when he has dealt with it as provided by this section, return it to the impounding officer.

Instruments unduly stamped by accident.

41. If any instrument chargeable with duty and not duly stamped, not being an instrument chargeable with a duty of one anna [1][or half an anna] [2][or a mortgage of crop (Article 32(a) of Schedule I-A) chargeable under clauses (*aa*) or (*bb*) of section 3 with a duty of two annas] or a bill of exchange or promissory note, is produced by any person of his own motion before the Deputy Commissioner within one year from the date of its execution or first execution and such person brings to the notice of the Deputy Commissioner the fact that such instrument is not duly stamped and offers to pay to the Deputy Commissioner the amount of the proper duty, or the amount required to make up the same, and the Deputy Commissioner is satisfied that the omission to duly stamp such instrument has been occasioned by accident, mistake or urgent necessity, he may, instead of proceeding under sections 33 and 40, receive such amount and proceed as next hereinafter prescribed.

Endorsement of instruments on which duty has been paid under section 35, 40 or 41.

42. (1) When the duty and penalty (if any) leviable in respect of any instrument have been paid under section 35, section 40 or section 41, the person admitting such instrument in evidence or the Deputy Commissioner, as the case may be, shall certify by endorsement thereon that the proper duty or, as the case may be, the proper duty and penalty (stating the amount of each) have been levied in respect thereof and the name and residence of the person paying them.

(2) Every instrument so endorsed shall thereupon be admissible in evidence, and may be registered and acted upon and authenticated as if it had been duly stamped, and shall be delivered on his application in his behalf to the person from whose possession it came into the hands of the officer impounding it, or as such person may direct :

Provided that—

(*a*) no instrument which has been admitted in evidence upon payment of duty and a penalty under section 35, shall be so delivered before the expiration of one month from the date of such impounding, or if the Deputy Commissioner has certified that

1. Inserted by Act II of 1908.
2. Inserted by Act VII of 1922.

its further detention is necessary and has not cancelled such certificate ;

(*b*) nothing in this section shall affect the Code of Civil Procedure, section 144, clause 3.

Prosecution for offence against Stamp law.

43. The taking of proceedings or the payment of a penalty under this Chapter in respect of any instrument shall not bar the prosecution of any person who appears to have committed an offence against the Stamp law in respect of such instrument :

Provided that no such prosecution shall be instituted in the case of any instrument in respect of which such a penalty has been paid, unless it appears to the Deputy Commissioner that the offence was committed with an intention of evading payment of the proper duty.

Persons paying duty or penalty may recover the same in certain cases.

44. (1) When any duty or penalty has been paid under section 35, section 37, section 40 or section 41, by any person in respect of an instrument, and by agreement or under the provisions of section 29 or any other enactment in force at the time such instrument was executed, some other person was bound to bear the expense of providing the proper stamp for such instrument, the first-mentioned person shall be entitled to recover from such other person the amount of the duty or penalty so paid.

(2) For the purpose of such recovery any certificate granted in respect of such instrument under this Act shall be conclusive evidence of the matters therein certified.

(3) Such amount may, if the Court thinks fit, be included in any order as to costs in any suit or proceeding to which such persons are parties and in which such instrument has been tendered in evidence. If the Court does not include the amount in such order, no further proceedings for the recovery of the amount shall be maintainable.

Power to Revenue authority to refund penalty or excess duty in certain cases.

45. (1) Where any penalty is paid under section 35 or section 40, the Chief Controlling Revenue-authority may, upon application in writing made within one year from the date of the payment, refund such penalty wholly or in part.

(2) Where, in the opinion of the Chief Controlling Revenue-authority, stamp-duty in excess of that which is legally chargeable has been charged and paid under section 35 or section 40, such authority may, upon application in writing made within three months of the order charging the same, refund the excess.

(Chapter V—Allowances for stamps.)

Non-liability for loss of instruments sent under section 38.

46. (1) If any instrument sent to the Deputy Commissioner under section 38, sub-section (2), is lost, destroyed or damaged during transmission, the person sending the same shall not be liable for such loss, destruction or damage.

(2) When any instrument is about to be so sent, the person from whose possession it came into the hands of the person impounding the same, may require a copy thereof to be made at the expense of such first-mentioned person and authenticated by the person impounding such instrument.

Power of payer to stamp bills, promissory notes and cheques received by him unstamped.

47. When any bill of exchange, [1][or promissory note] chargeable with the duty of one anna is presented for payment unstamped, the person to whom it is so presented, may affix thereto the necessary adhesive stamp, and, upon cancelling the same in manner hereinbefore provided, may pay the sum payable upon such bill, [1][or note] and may charge the duty against the person who ought to have paid the same, or deduct it from sum payable as aforesaid, and such bill, [1][or note] shall so far as respects the duty, be deemed good and valid :

Provided that nothing herein contained shall relieve any person from any penalty or proceeding to which he may be liable in relation to such bill, [1][or note].

Recovery of duties and penalties.

48. All duties, penalties and other sums required to be paid under this Chapter may be recovered by the Deputy Commissioner by distress and sale of the movable property of the person from whom the same are due, or by any other process for the time being in force for the recovery of arrears of land revenue.

CHAPTER V.

Allowances for Stamps in certain cases.

Allowance for spoiled stamps.

49. Subject to such rules as may be made by the Government as to evidence to be required, or the enquiry to be made, the Deputy Commissioner may, on application made within the period prescribed in section 50, and if he is satisfied as to the facts, make allowance for impressed stamps spoiled in the cases hereinafter mentioned, namely :—

(*a*) the stamp on any paper inadvertently and undesignedly spoiled, obliterated or by error in writing or any other means rendered unfit for the

1. Substituted for the words 'promissory note or cheque' by Act I of 1928.

purpose intended before any instrument written thereon is executed by any person ;

(*b*) the stamp on any document which is written out wholly or in part, but which is not signed or executed by any part thereto ;

(*c*) in the case of bills of exchange [1][payable otherwise than on demand][2] or promissory notes.—

(1) the stamp on [3][any such bill of exchange,][4] signed by or on behalf of the drawer which has not been accepted or made use of in any manner whatever or delivered out of his hands for any purpose other than by way of tender for acceptance : provided that the paper on which any such stamp is impressed does not bear any signature intended as or for the acceptance of any bill of exchange [4] to be afterwards written thereon.

(2) the stamp on any promissory note signed by or in behalf of the maker which has not been made use of in any manner whatever or delivered out of his hands :

(3) the stamp used or intended to be used for [3][any such bill of exchange][4] or promissory note signed by, or on behalf of, the drawer thereof, but which from any omission or error has been spoiled or rendered useless, although the same, being a bill of exchange [5]may have been presented for acceptance or accepted or endorsed, or being a promissory note, may have been delivered to the payee : provided that another completed and duly stamped bill of exchange, [6]or promissory note is produced identical in every particular, except in the correction of such omission or error as aforesaid, with spoiled bill, cheque or note :

(*d*) the stamp used for an instrument executed by any party thereto which—

(1) has been afterwards found to be absolutely void in law from the beginning :

1. Inserted by Act I of 1928.
2. The word "cheques" was omitted by Act I of 1928.
3. Substituted for the original by Act I of 1928.
4. The words "or cheque" and 'cheque' respectively were omitted by Act I of 1928.
5. The words ' or cheque ' were omitted by Act I of 1928.
6. The word ' cheque ' was omitted by Act I of 1928.

(2) has been afterwards found unfit, by reason of any error or mistake therein, for the purpose originally intended :

(3) by reason of the death of any person by whom it is necessary that it should be executed, without having executed the same, or of the refusal of any such person to execute the same, cannot be completed so as to effect the intended transaction in the form proposed :

(4) for want of the execution thereof by some material party, and his inability or refusal to sign the same, is in fact incomplete and insufficient for the purpose for which it was intended :

(5) by reason of the refusal of any person to act under the same, or to advance any money intended to be thereby secured, or by the refusal or non-acceptance of any office thereby granted, totally fails of the intended purpose :

(6) becomes useless in consequence of the transaction intended to be thereby effected, being effected by some other instrument between the same parties and bearing a stamp of not less value :

(7) is deficient in value and the transaction intended to be thereby effected has been effected by some other instrument between the same parties and bearing a stamp of not less value :

(8) is inadvertently and undesignedly spoiled, and in lieu whereof another instrument made between the same parties and for the same purpose is executed and duly stamped :

Provided that, in the case of an executed instrument, no legal proceeding has been commenced in which the instrument could or would have been given or offered in evidence and that the instrument is given up to be cancelled.

Explanation.—The certificate of the Deputy Commissioner under section 32, that the full duty with which an instrument is chargeable has been paid, is an impressed stamp within the meaning of this section.

Application for relief under section 49 when to be made.

50. The application for relief under section 49 shall be made within the following periods, that is to say,—

(1) in the cases mentioned in clause (*d*) (5), within two months of the date of the instrument ;

(2) in the case of a stamped paper on which no instrument has been executed by any of the parties thereto, within six months after the stamp has been spoiled ;

(3) in the case of a stamped paper in which an instrument has been executed by any of the parties thereto, within six months after the date of the instrument or, if it is not dated, within six months after execution thereof by the person by whom it was first or alone executed :

Provided that —

(*a*) when the spoiled instrument has been for sufficient reasons sent out of Mysore, the application may be made within six months after it has been received back in Mysore ;

(*b*) when, from unavoidable circumstances, any instrument for which another instrument has been substituted, cannot be given up to be cancelled within the aforesaid period, the application may be made within six months after the date of execution the substituted instrument.

Allowance in case of printed forms no longer required by Corporations.

51. The Chief Controlling Revenue-authority may, without limit of time, make allowance for stamped papers used for printed forms of instruments [1][by any banker or] by any incorporated company or other body corporate, if for any sufficient reason such forms have ceased to be required by the said [1][banker] company or body corporate : provided that such authority is satisfied that the duty in respect of such stamped papers has been duly paid.

Allowance for misused stamps.

52. (*a*) When any person has inadvertently used for an instrument chargeable with duty, a stamp of a description other than that prescribed for such instrument by the rules made under this Act, or a stamp of greater value than was necessary or has inadvertently used any stamp for an instrument not chargeable with any duty : or

(*b*) When any stamp used for an instrument has been inadvertently rendered useless under section 15, owing to such instrument having been written in contravention of the provisions of section 13 ;

The Deputy Commissioner may, on application made within six months after the date of the instrument, or, if it is not dated, within six months after the execution

1. These words were inserted by Act II of 1908.

thereof by the person by whom it was first or alone executed, and upon the instrument, if chargeable with duty, being, restamped with the proper duty, cancel and allow as spoiled the stamp so misused or rendered useless.

Allowance for spoiled or misused stamps how to be made.

53. In any case in which allowance is made for spoiled or misused stamps, the Deputy Commissioner may give in lieu thereof—

(*a*) other stamps of the same description and value; or

(*b*) if required and he thinks fit, stamps of any other description to the same amount in value ; or

(*c*) at his discretion, the same value in money deducting one anna for each rupee or fraction of a rupee.

Allowance for stamps not required for use.

54. When any person is possessed of a stamp or stamps which have not been spoiled or rendered unfit or useless for the purpose intended, but for which he has no immediate use, the Deputy Commissioner shall repay to such person the value of such stamp or stamps in money, deducting one anna for each rupee or portion of a rupee, upon such person delivering up the same to be cancelled, and proving to the Deputy Commissioner's satisfaction—

(*a*) that such stamp or stamps were purchased by such person with a *bona fide* intention to use them ; and

(*b*) that he has paid the full price thereof ; and

(*c*) that they were so purchased within the period of six months next preceding the date on which they were so delivered :

Provided that, where the person is a licensed vendor of stamps, the Deputy Commissioner may, if he thinks fit, make the repayment of the sum actually paid by the vendor without any such deduction as aforesaid.

Allowance on renewal of certain debentures.

55. When any duly stamped debenture is renewed by the issue of a new debenture in the same terms, the Deputy Commissioner shall, upon application within one month, repay to the person issuing such debenture, the value of the stamp on the original or on the new debenture whichever shall be less :

Provided that the original debenture is produced before the Deputy Commissioner and cancelled by him in such manner as the Government may direct.

(*Chapter VI– Reference and Revision.*)

Explanation.—A debenture shall be deemed to be renewed in the same terms within the meaning of this section notwithstanding the following changes :—

(*a*) the issue of two or more debentures in place of one original debenture, the total amount secured being the same ;

(*b*) the issue of one debenture in place of two or more original debentures, the total amount secured being the same ;

(*c*) the substitution of the name of the holder at the time of renewal for the name of the original holder ; and

(*d*) the alteration of the rate of interest or the dates of payment thereof.

CHAPTER VI.

REFERENCE AND REVISION.

Control of, and statement of case to, Chief Controlling Revenue authority.

56. (1) The powers exercisable by a Deputy Commissioner under Chapter IV and Chapter V [1][and under clause (*a*) of the first proviso to section 26] shall in all cases be subject to the control of the Chief Controlling Revenue-authority.

(2) If any Deputy Commissioner, acting under section 31, section 40 or section 41, feels doubt as to the amount of duty with which any instrument is chargeable, he may draw up a statement of the case and refer it with his own opinion thereon, for the decision of the Chief Controlling Revenue-authority.

(3) Such authority shall consider the case and send a copy of its decision to the Deputy Commissioner, who shall proceed to assess and charge the duty (if any) in conformity with such decision.

Statement of case by Chief Controlling Revenue-authority to [2]High Court.

57. (1) The Chief Controlling Revenue-authority may state any case referred to it under section 56, sub-section (2), or otherwise coming to its notice, and refer such case, with its own opinion thereon, to the [2][High Court].

(2) Every such case shall be decided by not less than three Judges of the [2][High Court], and in case of difference, the opinion of the majority shall prevail.

1. Inserted by Act II of 1908.
2. The words 'High Court' were substituted for the words 'Chief Court' by Act XII of 1930.

(Chapter VI—Reference and Revision.)

Power of [1]High Court to call for further particulars as to case stated.

58. If the [1][High Court] is not satisfied that the statements contained in the case are sufficient to enable it to determine the questions raised thereby the Court may refer the case back to the Revenue-authority by which it was stated, to make such additions thereto or alterations therein as the Court may direct in that behalf.

Procedure in disposing of case stated.

59. (1) The [1][High Court], upon the hearing of any such case, shall decide the questions raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded.

(2) The Court shall send to the Revenue-authority by which the case was stated a copy of such judgment under the seal of the Court and the signature of the Registrar; and the Revenue-authority shall, on receiving such copy, dispose of the case conformably to such judgment.

Statement of case by other Courts to [1]High Court.

60. (1) If any Court, other than [1][High Court] feel doubt as to the amount of duty to be paid in respect of any instrument under proviso (*a*) to section 35, the Judge may draw up a statement of the case and refer it, with his own opinion thereon, for the decision of the [1][High Court].

(2) Such Court shall deal with the case as if it had been referred under section 57, and send a copy of its judgment under the seal of the Court and the signature of the Registrar to the Chief Controlling Revenue-authority and another like copy to the Judge making the reference, who shall, on receiving such copy, dispose of the case conformably to such judgment.

(3) References made under sub-section (1), when made by a Court subordinate to a District Court, shall be made through the District Court, and, when made by any subordinate Revenue Court, shall be made through the Court immediately superior.

Revision of certain decisions of Courts regarding the sufficiency of stamps.

61. (1) When any Court in the exercise of its Civil or Revenue jurisdiction or any Criminal Court in any proceeding under Chapter XII or Chapter XXXVI of the Code of Criminal Procedure, makes any order admitting any instrument in evidence as duly stamped or as not requiring a stamp, or upon payment of duty and a penalty under section 35, the Court to which appeals lie from, or references are made by, such first mentioned Court may, of its own motion or on the application of the Deputy Commissioner, take such order into consideration.

1. The words 'High Court' were substituted for the words 'Chief Court' by Act XII of 1930.

Chapter VII—Criminal Offences and Procedure.)

(2) If such Court, after such consideration, is of opinion that such instrument should not have been admitted in evidence without the payment of duty and penalty under section 35, or without the payment of a higher duty and penalty than those paid, it may record a declaration to that effect, and determine the amount of duty with which such instrument is chargeable, and may require any person in whose possession or power such instrument then is, to produce the same, and may impound the same when produced.

(3) When any declaration has been recorded under sub-section (2), the Court recording the same shall send a copy thereof to the Deputy Commissioner and, where the instrument to which it relates has been impounded or is otherwise in the possession of such Court, shall also send him such instrument.

(4) The Deputy Commissioner may thereupon, notwithstanding anything contained in the order admitting such instrument in evidence, or in any certificate granted under section 42, or in section 43, prosecute any person for any offence against the Stamp-law which the Deputy Commissioner considers him to have committed in respect of such instrument:

Provided that—

(*a*) no such prosecution shall be instituted where the amount (including duty and penalty) which, according to the determination of such Court, was payable in respect of the instrument under section 35, is paid to the Deputy Commissioner, unless he thinks that the offence was committed with an intention of evading payment of the proper duty;

(*b*) except for the purpose of such prosecution, no declaration made under this section shall affect the validity of any order admitting any instrument in evidence, or of any certificate granted under section 42.

CHAPTER VII.

Criminal Offences and Procedure.

Penalty for executing, etc., instrument not duly stamped.

62. (1) Any person—

(*a*) drawing, making, issuing, endorsing or transferring or signing otherwise than as a witness, or presenting for acceptance or payment or accepting, paying or receiving payment of, or in any

manner negotiating, any bill of exchange, [1][payable otherwise than on demand][2] or promissory note, without the same being duly stamped; or

(*b*) executing or signing otherwise than as a witness any other instrument chargeable with duty, without the same being duly stamped; or

(*c*) voting or attempting to vote under any proxy not duly stamped;

shall for every such offence be punishable with fine which may extend to five hundred rupees:

Provided that, when any penalty has been paid in respect of any instrument under section 35, section 40 or section 61, the amount of such penalty shall be allowed in reduction of the fine (if any) subsequently imposed under this section in respect of the same instrument upon the person who paid such penalty.

(2) If a share-warrant is issued without being duly stamped, the company issuing the same, and also every person who, at the time when it is issued, is the managing director or secretary or other principal officer of the company, shall be punishable with fine which may extend to five hundred rupees.

Penalty for failure to cancel adhesive stamp.

63. Any person required by section 12 to cancel an adhesive stamp, and failing to cancel such stamp in manner prescribed by that section, shall be punishable with fine which may extend to one hundred rupees.

Penalty for omission to comply with provisions of section 27.

64. Any person who, with intent to defraud the Government,—

(*a*) executes any instrument in which all the facts and circumstances required by section 27 to be set forth in such instrument are not fully and truly set forth; or

(*b*) being employed or concerned in or about the preparation of any instrument, neglects or omits fully and truly to set forth therein all such facts and circumstances; or

(*c*) does any other act calculated to deprive the Government of any duty or penalty under this Act;

shall be punishable with fine which may extend to five thousand rupees.

1. Added by Act I of 1928.
2. The word 'cheque' was omitted by Act I of 1928.

Penalty for refusal to give receipt, and for devices to evade duty on receipts.

65. Any person who,—

(*a*) being required under section 30 to give a receipt, refuses or neglects to give the same; or

(*b*) with intent to defraud the Government of any duty, upon a payment of money or delivery of property exceeding twenty rupees in amount or value, gives a receipt for an amount or value not exceeding twenty rupees, or separates or divides the money or property paid or delivered;

shall be punishable with fine which may extend to one hundred rupees.

Penalty for not making out policy or making one not duly stamped.

66. Any person who—

(*a*) receives, or takes credit for, any premium or consideration for any contract of insurance and does not, within one month after receiving, or taking credit for, such premium or consideration, make out and execute a duly stamped policy of such insurance; or

(*b*) makes, executes or delivers out any policy which is not duly stamped, or pays or allows in account, or agrees to pay or allow in account, any money upon, or in respect of, any such policy;

shall be punishable with fine which may extend to two hundred rupees.

Penalty for not drawing full number of bills or marine policies purporting to be in sets.

67. Any person drawing or executing a bill of exchange [1] [payable otherwise than on demand] or a policy of marine insurance purporting to be drawn or executed in a set of two or more, and not at the same time drawing or executing on paper duly stamped the whole number of bills or policies of which such bill or policy purports the set to consist, shall be punishable with fine which may extend to one thousand rupees.

Penalty for post-dating bills, and for other devices to defraud the revenue.

68. Any person who—

(*a*) with intent to defraud the Government of duty, draws, makes or issues any bill of exchange or promissory note bearing a date subsequent to that on which such bill or note is actually drawn or made; or

(*b*) knowing that such bill or note has been so post-dated, endorses, transfers, presents for acceptance or payment, or accepts, pays or receives payment

1. Inserted by Act I of 1928.

of, such bill or note, or in any manner negotiates the same ; or

(*c*) with the like intent, practises or is concerned in any act, contrivance or device not specially provided for by this Act or any other law for the time being in force ;

shall be punishable with fine which may extend to one thousand rupees.

Penalty for breach of rule relating to sale of stamps and for unauthorised sale.

69. (*a*) Any person appointed to sell stamps who disobeys any rule made under section 74, and

(*b*) any person not so appointed who sells or offers for sale any stamp (other than a one anna [1][or half an anna] adhesive stamp)

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Institution and conduct of prosecutions.

70. (1) No prosecution in respect of any offence punishable under this Act or any enactment hereby repealed, shall be instituted without the sanction of the Deputy Commissioner or such other officer as the Government generally, or the Deputy Commissioner specially, authorizes in that behalf.

(2) The Chief Controlling Revenue-authority, or any officer generally or specially authorized by it in this behalf, may stay any such prosecution or compound any such offence.

(3) The amount of any such composition shall be recoverable in the manner provided by section 48.

Jurisdiction of Magistrates.

71. No Magistrate other than a Magistrate whose powers are not less than those of a Magistrate of the second class, shall try any offence under this Act.

Place of trial.

72. Every such offence committed in respect of any instrument may be tried in any district in which such instrument is found, as well as in any district in which such offence might be tried under the Code of Criminal Procedure for the time being in force.

CHAPTER VIII.

SUPPLEMENTAL PROVISIONS.

Books, etc., to be open to inspection.

73. Every public officer having in his custody any registers, books, records, papers, documents or proceedings the inspection whereof may tend to secure any duty, or to

1. Inserted by Act II of 1908.

prove or lead to the discovery of any fraud or omission in relation to any duty, shall at all reasonable times permit any person authorized in writing by the Deputy Commissioner to inspect for such purpose the registers, books, papers, documents and proceedings, and to take such notes and extracts as he may deem necessary, without fee or charge.

Powers to make rules relating to sale of stamps.

74. The Government may make rules for regulating—

(*a*) the supply and sale of stamps and stamped papers,

(*b*) the persons by whom alone such sale is to be conducted, and

(*c*) the duties and remuneration of such persons :

Provided that such rules shall not restrict the sale of one-anna [1] [or half an anna] adhesive stamps.

Power to make rules generally to carry out Act.

75. The Government may also make rules to carry out generally the purposes of this Act, and may by such rules prescribe the fines, which shall in no case exceed five hundred rupees, to be incurred on breach thereof.

Publication of rules.

76. (1) All rules made under this Act shall be published in the official Gazette.

(2) All rules published as required by this section shall, upon such publication, have effect as if enacted by this Act.

Saving as to Court fees.

77. Nothing in this Act contained shall be deemed to affect the duties chargeable under any enactment for the time being in force relating to Court-fees.

Act to be translated, and sold cheaply.

78. The Government shall make provision for the sale of a translation of this Act in Kanarese at a price not exceeding four annas per copy.

Repeal.

79. The enactments mentioned in Schedule II are repealed to the extent specified in the fourth column thereof.

1. Inserted by Act II of 1908.

(*Schedule I.*)

SCHEDULE I.

STAMP-DUTY ON INSTRUMENTS.

(*See Section 3.*)

Description of Instrument	Proper Stamp-duty
1. **Acknowledgment** of a debt exceeding twenty rupees in *amount or value*, written or signed by, or on behalf of a debtor, in order to supply evidence of such debt in any book (other than a banker's pass-book) or on a separate piece of paper when such book or paper is left in the creditor's possession: *provided* that such acknowledgment does not contain any promise to pay the debt or *any stipulation to pay interest* or to deliver any goods or other property.	[1][One and a half annas.]
2. **Administration Bond**, including a bond given under section 256 of the Indian Succession Act, 1865, section 6 of the Government Savings Banks Act, 1873, or Act XXVII of 1860[2]—	
(*a*) where the amount does not exceed Rs. 1,000;	The same duty as a Bond (No. 14) for such amount.
(*b*) in any other case	Five rupees.
3. **Adoption Deed**, that is to say, any instrument (other than a will) recording an adoption or conferring or purporting to confer an authority to adopt.	Ten rupees.
4. **Affidavit**, including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing.	One rupee.
Exemptions.	
Affidavit or declaration in writing when made—	
(*a*) for the immediate purpose of being filed or used in any Court or before the officer of any Court; or	
(*b*) for the sole purpose of enabling any person to receive any pension or charitable allowance.	
5. **Agreement or Memorandum of an Agreement**:—	
(*a*) if relating to the sale of a Government Security, or share in an incorporated Company or other body corporate, or a bill of exchange;	One anna.
(*b*) if not otherwise provided for ...	Eight annas.

1. Substituted by Act 11 of 1954.
2. This should be construed as referring to Act VII of 1901. Section 2 (1) which repeals Act XXVII of 1860.

(Schedule I.)

Description of Instrument	Proper Stamp-duty
Exemption.	
Agreement or Memorandum of the Agreement :—for or relating to the sale of goods or merchandise exclusively, not being a NOTE OR MEMORANDUM chargeable under No. 41.	
[1][**Agreement to lease.**—*See* LEASE (No. 33.)	
6. **Agreement Relating to Deposit of Title-deeds, Pawn or Pledge**, that is to say, any instrument evidencing an agreement relating to—	
(1) the deposit of title-deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security) ; or	
(2) the pawn or pledge of movable property where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or a future debt—	
(*a*) If such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement.	The same duty as a Bill of Exchange [No. 12 (*b*)] for the amount secured.
(*b*) If such loan or debt is repayable not more than three months from the date of such instrument.	Half the duty payable on a Bill of Exchange [No. 12 (*b*)] for the amount secured.
Exemption.	
Instrument of pawn or pledge of goods if unattested.]	
7. **Appointment in execution of a power**, whether of trustees or, of property movable or immovable, where made by any writing not being a will.	Fifteen rupees.
8. **Appraisement or Valuation** made otherwise than under an order of the Court in the course of a suit—	
(*a*) where the amount does not exceed Rs. 1,000;	The same duty as a Bond (No. 14) for such amount.
(*b*) in any other case	Five rupees.
Exemptions.	
(*a*) Appraisement or valuation made for the information of one party only and not being in any manner obligatory between parties either by agreement or operation of law.	

1. Substituted by Act II of 1908.

(*Schedule I.*)

Description of Instrument	Proper Stamp-duty
(*b*) Appraisement for crops for the purpose of ascertaining the amount to be given to a landlord as rent.	
9. Apprenticeship-deed, including every writing relating to the service or tuition of any apprentice, clerk or servant, placed with any master to learn any profession, trade or employment.	Five rupees.
Exemption.	
Instruments of apprenticeship executed by a Magistrate under the Apprentices Act, 1850, or by which a person is apprenticed by or at the charge of any public charity.	
10. Articles of Association of a Company ...	Twenty-five rupees.
Exemption.	
Articles of any Association not formed for profit and registered under section 26 of the *Mysore Companies Act, 1895*.	
See also MEMORANDUM OF ASSOCIATION OF A COMPANY (No. 37).	
Assignment—*See* CONVEYANCE (No. 22), TRANSFER (No. 60) and TRANSFER OF LEASE (No. 61), as the case may be.	
Attorney.—*See* POWER OF ATTORNEY (No. 46).	
Authority to adopt.—*See* ADOPTION-DEED (No. 3).	
11. Award, that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of the Court in the course of a suit—	
(*a*) where the amount or value of the property to which the award does not exceed Rs. 1,000;	The same duty as Bond (No. 14) for such amount.
(*b*) in any other case	Five rupees.
12. Bill of Exchange (as defined by section 2 (2) [1] not being a BOND, bank-note or currency note—	
* * * [2] [2] * * *	* * *

1. The word and figure 'and 3' were omitted by Act I of 1928.
2. Clause (*a*) of this article was omitted by Act I of 1928.

(*Schedule I.*)

Description of Instrument	Proper Stamp-duty		
	If drawn singly	If drawn in set of two, for each part of the set	If drawn in set of three, for each part of the set
12. Bill of Exchange—*contd.*			
[1] (*b*) where payable otherwise than on demand, but not more than one year after date or sight—			
	Rs.	Rs. a. p.	Rs. a. p.	Rs. a. p.
if the amount of the bill or note does not exceed	200	0 3 0	0 2 0	0 1 0
if it exceeds Rs. 200 and does not exceed	400	0 6 0	0 3 0	0 2 0
Do 400 do	600	0 9 0	0 5 0	0 3 0
Do 600 do	800	0 12 0	0 6 0	0 4 0
Do 800 do	1,000	0 15 0	0 8 0	0 5 0
Do 1,000 do	1,200	1 2 0	0 9 0	0 6 0
Do 1,200 do	1,600	1 8 0	0 12 0	0 8 0
Do 1,600 do	2,500	2 4 0	1 2 0	0 12 0
Do 2,500 do	5,000	4 8 0	2 4 0	1 8 0
Do 5,000 do	7,500	6 12 0	3 6 0	2 4 0
Do 7,500 do	10,000	9 0 0	4 8 0	3 0 0
Do 10,000 do	15,000	13 8 0	6 12 0	4 8 0
Do 15,000 do	20,000	18 0 0	9 0 0	6 0 0
Do 20,000 do	25,000	22 8 0	11 4 0	7 8 0
Do 25,000 do	30,000	27 0 0	13 8 0	9 0 0
and for every additional Rs. 10,000 or part thereof in excess of Rs. 30,000		9 0 0	4 8 0	3 0 0

1. Substituted by Act IV of 1916.

(*Schedule I.*)

Description of Instrument	Proper Stamp-duty
12. Bill of Exchange—*concld.*	
(*c*) where payable at more than one year after date or sight.	The same duty as a Bond (No. 14) for same amount.
13. Bill of Lading (including a through bill of lading).	Four annas.
Exemption.	*N. B.*—If a bill of lading is drawn in parts, the proper stamp therefor must be borne by each one of the set.
Bill of Lading when executed out of Mysore except Bellary District and relating to property to be delivered in Mysore.	
14. Bond as defined by section 2 (5) not being a DEBENTURE (No. 26) and not being otherwise provided for by this Act or by the Court-fees Act, 1900.	
Where the amount or value secured does not exceed Rs. 10.	Two annas.
Where it exceeds Rs. 10 and does not exceed Rs. 50	Four annas.
Do 50 do 100	Eight annas.
Do 100 do 200	One rupee.
Do 200 do 300	One rupee, eight annas.
Do 300 do 400	Two rupees.
Do 400 do 500	Two rupees, eight annas.
Do 500 do 600	Three rupees.
Do 600 do 700	Three rupees, eight annas.
Do 700 do 800	Four rupees.
Do 800 do 900	Four rupees, eight annas.
Do 900 do 1,000	Five rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Two rupees, eight annas.

(*Schedule I.*)

Description of Instrument	Proper Stamp-duty
14. Bond.—*concld.* *See* ADMINISTRATION BOND (No. 2), BOTTOMRY BOND (No. 15), CUSTOMS BOND (No. 25), INDEMNITY BOND (No. 32), RESPONDENTIA BOND (No. 54), SECURITY BOND (No. 55). *Exemption.* Bond when executed by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem.	
15. Bottomry Bond.—That is to say, any instrument whereby the master of a seagoing ship borrows money on the security of the ship to enable him to preserve the ship or prosecute her voyage.	The same duty as a Bond (No. 14) for the same amount.
16. Cancellation. Instrument of (including any instrument by which any instrument previously executed is cancelled), if attested and not otherwise provided for. *See also* RELEASE (No. 53), REVOCATION OF SETTLEMENT (No. 56-B), SURRENDER OF LEASE (No. 59), REVOCATION OF TRUST (No. 62-B).	Five rupees.
17. Certificate of sale.—(In respect of each property put up as a separate lot and sold) granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Deputy Commissioner or other Revenue Officer—	
(*a*) where the purchase money does not exceed Rs. 10 ;	Two annas.
(*b*) where the purchase money exceeds Rs. 10 but does not exceed Rs. 25;	Four annas.
(*c*) in any other case	The same duty as a Conveyance (No. 22) for a consideration equal to the amount of the purchase money only.

(*Schedule I.*)

Description of Instrument	Proper Stamp-duty
18. Certificate or other Document.—Evidencing the right or title of the holder thereof, or any other person, either to any shares, scrip or stock in or of any incorporated company or other body corporate, or to become proprietor of shares, scrip or stock in or of any such company or body. *See also* LETTER OF ALLOTMENT OF SHARES (No. 34).	[1][Three annas]
19. Charter Party, that is to say, any instrument (except an agreement for the hire of a tug-steamer) whereby a vessel or some specified principal part thereof is let for the specified purposes of the charter, whether it includes a penalty clause or not.	One rupee.
20. [2][* * * *]	
21. Composition-Deed, that is to say, any instrument executed by a debtor whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business under the supervision of inspectors or under letters of license, for the benefit of his creditors.	Ten rupees.
22. Conveyance [as defined by section 5 (10)] not being a TRANSFER charged or exempted under No. 60—	
Where the amount or value of the consideration for such conveyance as set forth therein does not exceed Rs. 50.	Eight annas.

1. Substituted by Act 11 of 1954.
2. Omitted by Act I of 1929.

(Schedule I.)

Description of Instrument	Proper Stamp-duty
22. Conveyance—*concld.*	Rs.
Where it exceeds Rs. 50 but does not exceed ... 100	One rupee.
Do 100 do ... 200	Two rupees.
Do 200 do ... 300	Three rupees.
Do 300 do ... 400	Four rupees.
Do 400 do ... 500	Five rupees.
Do 500 do ... 600	Six rupees.
Do 600 do ... 700	Seven rupees.
Do 700 do ... 800	Eight rupees.
Do 800 do ... 900	Nine rupees.
Do 900 do ... 1,000	Ten rupees.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Five rupees.
Exemption.	
Assignment of copyright by entry made under the Indian Copyright Act, 1847, Section 5.	
Co-partnership-Deed—*See* PARTNERSHIP (No. 44).	
23. Copy or Extract certified to be a true copy or extract by or by order of any public officer and not chargeable under the law for the time being in force relating to court-fees—	
(*i*) if the original was not chargeable with duty or if the duty with which it was chargeable does not exceed one rupee;	Eight annas.
(*ii*) in any other case	One rupee.
Exemption.	
Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.	
24. Counterpart or Duplicate of any instrument chargeable with duty and in respect of which the proper duty has been paid—	
(*a*) if the duty with which the original instrument is chargeable does not exceed one rupee;	The same duty as is payable on the original.
(*b*) in any other case ...	One rupee.
Exemption.	
Counterpart of any lease granted to a cultivator when such lease is exempted from duty.	

(*Schedule I.*)

Description of Instrument	Proper Stamp-duty
25. Customs-Bond.—	
(*a*) where the amount does not exceed Rs. 1,000 ;	The same duty as a Bond (No. 14) for such amount.
(*b*) in any other case ...	Five rupees.
26. Debenture (whether a mortgage debenture or not), being a marketable security transferable by delivery, or by endorsement or by separate instrument of transfer.	The same duty as a Bond (No. 14) for the same amount.
Explanation.—The term Debenture includes any interest coupons attached thereto, but the amount of such coupons shall not be included in estimating the duty.	
Exemption.	
A debenture issued by an incorporated company or other body corporate in terms of a registered mortgage-deed, duly stamped in respect of the full amount of debentures to be issued thereunder, whereby the company or body borrowing makes over in whole or in part, their property to trustees for the benefit of the debenture-holders : provided that the debentures so issued are expressed to be issued in terms of the said mortgage-deed.	
See also BOND (No. 14) ; and SECTIONS 8 and 55.	
Declaration of any trust.—*See* TRUST (No. 62.)	
27. Delivery-Order in respect of Goods, that is to say, any instrument entitling any person therein named, or his assigns or the holder thereof, to the delivery of any goods lying in any dock or port, or in any ware-house in which goods are stored or deposited on rent or hire, or upon any wharf, such instrument being signed by or on behalf of the owner of such goods, upon the sale or transfer of the property therein, when such goods exceed in value twenty rupees.	[1][One and a half annas.]
Deposit of Title-Deeds.—*See* (*a*) AGREEMENT relating to deposit of Title-deeds, Pawn or Pledge (No. 6.)[2]	
Dissolution of Partnership.—*See* PARTNERSHIP (No. 44.)	
28. Divorce.—Instrument of, that is to say, any instrument by which any person effects the dissolution of his marriage.	One rupee.

1. Substituted by Act 11 of 1954.
2. These words were substituted for the words " Agreement by way of Equitable Mortgage No. 6 " by Act II of 1908.

(*Schedule I.*)

Description of Instrument	Proper Stamp-duty
Dower.- Instrument of.—See SETTLEMENT (No. 56.) **Duplicate.**—See COUNTERPART (No. 24.) 1 1 1	
29. **Exchange of Property.**—Instrument of.	The same duty as a Conveyance (No. 22) for a consideration equal to the value of the property of greatest value as set forth in such instrument.
Extract—See COPY (No. 23.)	
30. **Further Charge.**—Instrument of, that is to say, any instrument imposing a further charge on mortgaged property—	
(*a*) when the original mortgage is one of the description referred to in clause (*a*) of Article No. 38 (that is, with possession) ;	The same duty as a Conveyance (No. 22) for a consideration equal to the amount of the further charge secured by such instrument.
(*b*) when such mortgage is one of the description referred to in clause (*b*) of article No. 38 (that is, without possession)—	
(i) if at the time of execution of the instrument of further charge, possession of the property is given or agreed to be given under such instrument ;	The same duty as a Conveyance (No. 22) for a consideration equal to the total amount of the charge (including the original mortgage and any further charge already made) less the duty already paid on such original mortgage and further charge.
(ii) if possession is not so given ...	The same duty as a Bond (No. 14) for the amount of the further charge secured by such instrument.
31. **Gift.**—Instrument of, not being a SETTLEMENT (No. 56) OR WILL OR TRANSFER (No. 60).	The same duty as a Conveyance (No. 22) for a consideration equal to the value of the property as set forth in such instrument.
Hiring Agreement or agreement for service.—See AGREEMENT (No. 5).	

1. The words " Equitable Mortgage. See Agreement by way of Equitable Mortgage (No. 6)," following article (No. 28) have been omitted by Act II of 1908.

(*Schedule I.*)

Description of Instrument	Proper Stamp-duty
32. Indemnity Bond	The same duty as a Security Bond (No. 55) for the same amount.
Inspectorship-Deed.—*See* COMPOSITION DEED (No. 21.)	
Insurance.—*See* POLICY OF INSURANCE (No. 45.)	
33. Lease, including an under-lease or sub-lease and any agreement to let or sub-let—	
(*a*) where by such lease the rent is fixed and no premium is paid or delivered—	
(i) where the lease purports to be for a term of less than one year;	The same duty as a Bond (No. 14) for the whole amount payable or deliverable under such lease.
(ii) where the lease purports to be for a term of not less than one year but not more than three years;	The same duty as a Bond (No. 14) for the amount or value of the average annual rent reserved.
(iii) where the lease purports to be for a term in excess of three years;	The same duty as a conveyance (No. 22) for a consideration equal to the amount or value of the average annual rent reserved.
(iv) where the lease does not purport to be for any definite term;	The same duty as a Conveyance (No. 22)

(*Schedule I.*)

Description of Instrument	Proper Stamp-duty
33. **Lease**—*contd.*	for a consideration equal to the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.
(v) where the lease purports to be in perpetuity ;	The same duty as a Conveyance (No. 22) for a consideration equal to one-fifth of the whole amount of rents which would be paid or delivered in respect of the first fifty years of the lease.
(*b*) where the lease is granted for a *fine or premium* or for money advanced and where no rent is reserved ;	The same duty as a Conveyance (No. 22) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease.
(*c*) where the lease is granted for a fine or premium or for money advanced in addition to rent reserved.	The same duty as a Conveyance (No. 22) for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease, in addition to the duty which would have been payable on such lease if no fine or premium or advance had been paid or delivered : Provided that in any case when an arrangement to lease is stamped with the *ad valorem* stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed eight annas.

(*Schedule I.*)

Description of Instrument	Proper Stamp-duty
33. Lease—*concld.*	
Exemption.	
Lease, executed in the case of a cultivator and for the purposes of cultivation (including a lease of trees for the production of food or drink) without the payment or delivery of any fine or premium, when a definite term is expressed and such term does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees.	
34. Letter of Allotment of Shares in any company or proposed company, or in respect of any loan to be raised by any company or proposed company.	[1][Three annas]
See also CERTIFICATE OR OTHER DOCUMENT (No. 18).	
35. Letter of Credit, that is to say, any instrument by which one person authorizes another to give credit to the person in whose favour it is drawn.	One anna.
Letter of Guarantee.—*See* AGREEMENT (No. 5).	
36. Letter of Licence, that is to say, any agreement between a debtor and his creditors that the latter shall, for a specified time, suspend their claims and allow the debtor to carry on business of his own discretion.	Ten rupees.
37 Memorandum of Association of a Company—	
(*a*) if accompanied by articles of association under section 37 of the *Mysore Companies Act, 1895;*	Fifteen rupees.
(*b*) if not so accompanied ...	Forty rupees.
Exemption.	
Memorandum of any association not formed for profit and registered under section 26 of the *Mysore Companies Act 1895.*	

1. Substituted by Act 11 of 1954.

(*Schedule I.*)

Description of Instrument	Proper Stamp-duty
38. Mortgage-Deed, not being [1][an AGREEMENT RELATING TO DEPOSIT OF TITLE DEEDS, PAWN OR PLEDGE (No. 6),] BOTTOMRY BOND (No. 15) MORTGAGE OF A CROP (No. 39), RESPONDENTIA BOND (No. 54), or SECURITY BOND (No. 55)—	
(*a*) when possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given;	The same duty as a Conveyance (No. 22) for a consideration equal to the amount secured by such deed.
(*b*) when possession is not given or agreed to be given as aforesaid:	The same duty as a Bond (No. 14) for the amount secured by such deed.
Explanation.—A mortgagor who gives to the mortgagee a power-of-attorney to collect rents or a lease of the property mortgaged or part thereof, is deemed to give possession within the meaning of this article.	
when a collateral or auxiliary or additional or substituted security, or by way of further assurance for the abovementioned purpose, where the principal or primary security is duly stamped—	
for every sum secured not exceeding Rs. 1,000;	Eight annas.
and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000.	Eight annas.
Exemptions.	
(1) Instrument, executed by persons taking advances under the Land Improvement Loans Act, 1890, or section 194 of the Mysore Land Revenue Code, 1888, or by their sureties as security for the repayment of such advances.	
(2) Letter of hypothecation accompanying a Bill of Exchange.	
39. Mortgage of a Crop, including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage—	

1. These words were substituted for the words "An Agreement to Mortgage (No. 6)" by Act II of 1908.

The words "at the time of execution" in clause (b) of Art. 38 have been omitted by Act II of 1908.

The exemption No. "3 Instrument of pledge or pawn of goods, if unattested," in Article No. 38, has been omitted by Act II of 1908.

(*Schedule I.*)

Description of Instrument	Proper Stamp-duty
39. Mortgage of a Crop—*concld.*	
(*a*) when the loan is repayable not more than three months from the date of the instrument—for every sum secured not exceeding Rs. 200; and	One anna.
for every Rs. 200 or part thereof secured in excess of Rs. 200;	One anna.
(*b*) when the loan is repayable more than three months, but not more than [1][eighteen months] from the date of the instrument—for every sum secured not exceeding Rs. 100; and for every Rs. 100 or part thereof secured in excess of Rs. 100.	[2][Two annas.] [2][Two annas.]
40. Notarial Act, that is to say, any instrument, endorsement, note, attestation, certificate or entry not being a PROTEST (No. 48) made by a Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary Public.	One rupee.
See also PROTEST OF BILL OR NOTE (No. 48).	

1. These words were substituted for the words "one year" by Act II of 1908.
2. These words were substituted for the words "Four annas" by Act II of 1908.

(*Schedule I.*)

Description of Instrument	Proper Stamp-duty
41. **Note or Memorandum** sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal of any goods, stock or marketable security exceeding in value 20 rupees.	One anna.
42. **Note of Protest by the Master of a Ship.** *See also* PROTEST BY THE MASTER OF A SHIP (No. 49). **Order for the Payment of Money.** *See* BILL OF EXCHANGE (No. 12).	Eight annas.
43. **Partition.**—Instrument of [as defined by section 2 (15)]	The same duty as a Bond (No. 14) for the amount of the value of the separated share or shares of the property.

N.B.—The largest share remaining after the property is partitioned (or, if there are two or more shares of equal value and not smaller than any of the other shares, then one of such equal shares) shall be deemed to be that from which the other shares are separated :

Provided always that—

(*a*) when an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than eight annas ;

(*b*) when land is held on revenue settlement for a period not exceeding thirty years and paying the full assessment, the value for the purpose of duty shall be calculated at not more than five times the annual revenue ;

(*c*) where a final order for effecting a partition passed by any Revenue-authority or any Civil Court, or an award by an arbitrator directing a partition, is stamped with the stamp required for an instrument of partition, and in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed eight annas.

(*Schedule I.*)

Description of Instrument	Proper Stamp-duty
44. Partnership—	
A—INSTRUMENT OF—	
(*a*) where the capital of the partnership does not exceed Rs. 500.	Two rupees, eight annas.
(*b*) in any other case	Ten rupees.
B—DISSOLUTION OF	Five rupees.
[1][**Pawn of Pledge.** *See* Agreement relating to Deposit of Title-Deeds Pawn or Pledge (No. 6) .]	

1. 1 This was inserted by Act II of 1908.

Description of Instrument		Proper Stamp duty
...	If drawn singly	If drawn in duplicate for each part
45. Policy of Insurance—		
[1][A. SEA INSURANCE. (*See* Section 7.)		
(1) for or upon any voyage—		
(i) where the premium or consideration does not exceed the rate of two annas or one-eighth per centum of the amount insured by the policy ;	One anna	Half anna.
(ii) in any other case, in respect of every full sum of one thousand rupees and also any fractional part of one thousand rupees insured by the policy ;	Two annas	One anna.
(2) for time—		
(iii) in respect of every full sum of one thousand rupees and also any		

1. This was substituted by Act II of 1908, for Divisions A and B of Article No. 45, Act II of 1900.

(*Schedule I.*)

Description of Instrument		Proper Stamp-duty
...	If drawn singly	If drawn in duplicate for each part
45. Policy of Insurance *contd.*		
fractional part of one thousand rupees insured by the policy—		
where the insurance shall be made for any time not exceeding six months ;	Two annas	One anna.
where the insurance shall be made for any time exceeding six months and not exceeding twelve months.	Four annas	Two annas.
B. FIRE INSURANCE—		
(1) in respect of an original policy—		
(i) where the sum insured does not exceed Rs. 5,000; and	...	Eight annas.
(ii) in any other case	...	One rupee.
(2) in respect of each receipt for any payment of a premium on any renewal of an original policy.	...	One-half of the duty payable in respect of the original policy in addition to the amount, if any, chargeable under No. 51.]

Description of Instrument	Proper Stamp-duty
C.—ACCIDENT AND SICKNESS INSURANCE—	
(*a*) against railway accident, valid for a single journey only.	One anna.
Exemption.	
When issued to a passenger travelling by the intermediate or the third class in any railway.	

(*Schedule I.*)

Description of Instrument	Proper Stamp-duty
45. Policy of Insurance—*contd.*	
(*b*) in any other case—for the maximum amount which may become payable in the case of any single accident or sickness where such amount does not exceed Rs. 1,000, and also where such amount exceeds Rs. 1,000 for every Rs. 1,000 or part thereof.	Two annas.
D.—LIFE INSURANCE OR OTHER INSURANCE NOT SPECIFICALLY PROVIDED FOR, except such a RE-INSURANCE as is described in Division E of this Article — for every sum insured not exceeding Rs. 1,000 and also for every Rs. 1,000 or part thereof insured in excess of Rs. 1,000—	
(i) if drawn singly	Six annas.
(ii) if drawn in duplicate, for each part.	Three annas.
Exemptions.	
Policies of life insurance granted by the Director-General of the Post Office of India in accordance with rules for Postal Life Insurance issued under the authority of the Government of India.	
E.—RE-INSURANCE BY AN INSURANCE COMPANY, WHICH HAS GRANTED A POLICY OF SEA INSURANCE ON A POLICY OF FIRE-INSURANCE, with another Company by way of indemnity or guarantee against the payment on the original insurance of a certain part of the sum insured thereby.	One-quarter of the duty payable in respect of the original insurance but not less than one anna or more than one rupee.
General Exemption.	
Letter of cover or engagement to issue a policy insurance : Provided, that, unless such letter or engagement bears the stamp prescribed by this Act for such policy, nothing shall be claimable thereunder, nor shall it be available for any purpose, except to compel the delivery of the policy therein mentioned.	

(*Schedule I.*)

Description of Instrument	Proper Stamp-duty
46. Power of attorney—[as defined by section 2 (21), not being a proxy (No. 50)]—	
(*a*) when executed for the sole purpose of procuring the registration for one or more documents in relation to a single transaction or for admitting execution of one or more such documents ;	Eight annas.
(*b*) when authorizing one person or more to act in a single transaction other than the case mentioned in clause (a);	One rupee.
(*c*) when authorizing not more than five persons to act jointly in more than one transaction or generally ;	Five rupees.
(*d*) when authorizing more than five but not more than ten persons to act jointly and severally in more than one transaction or generally ;	Ten rupees.
(*e*) when given for consideration and authorizing the attorney to sell any immoveable property ;	The same duty as Conveyance (No.22) for the amount of the consideration.
(*f*) in any other case ;	One rupee for each person authorized.
Explanation.—For the purpose of this Article more persons than one when belonging to the same firm shall be deemed to be one person.	*N.B.*—The term "Registration" includes every operation incidental to Registration under the Indian Registration Act, 1877.
47. Promissory Note—[as defined by section 2 (22)]—	
[1](*a*) when payable on demand.	One anna.
(*b*) when payable otherwise than on demand.	The same duty as a Bill of exchange (No. 12) for the same amount payable otherwise than on demand.]

1. Amended by Act IV of 1928.

(*Schedule I.*)

Description of Instrument	Proper Stamp-duty
48. Protest of Bill or Note—that is to say, any declaration in writing made by a Notary Public, or other person lawfully acting as such, attesting the dishonour of a bill of exchange or promissory note.	One rupee.
49. Protest by the Master of a Ship—that is to say, any declaration of the particulars of her voyage drawn up by him with a view to the adjustment of losses or the calculation of averages, and every declaration in writing made by him against the charterers or the consignees for not loading or unloading the ship, when such declaration is attested or certified by a Notary Public, or other person lawfully acting as such. *See also* Note of protest by the Master of a Ship (No. 42).	One rupee.
50. Proxy—empowering any person to vote at any one election of the members of a district or local board or of a body of municipal commissioners, or at any one meeting of (*a*) members of an incorporated company or other body corporate whose stock or funds is or are divided into shares and transferable ; (*b*) a local authority, or (*c*) proprietors, members or contributors to the funds of any institution.	One anna.
51. Receipt—[as defined by section 2 (23)] for any money or other property the amount or value of which exceeds twenty rupees. [1][See also Policy of Insurance No. 45-B. (2)]. *Exemptions.* Receipt— (*a*) endorsed on or contained in any instrument duly stamped, or exempted under the proviso to section 3 (instruments executed on behalf of the Government) acknowledging the receipt of the consideration money therein expressed, or the receipt of any principal money, interest or annuity or other periodical payment thereby secured, (*b*) for any payment of money without consideration.	One anna.

1. These words were added by Act II of 1908.

(*Schedule I.*)

Description of Instrument	Proper Stamp-duty
51. Receipt—*contd.* (*c*) for any payment of rent by a cultivator or account of land assessed to Government revenue, or of inam lands ; (*d*) for pay or allowances by non-commissioned officers or soldiers of His Highness the Maharaja's Military Forces, when serving in such capacity, or by mounted police constables ; (*e*) given by holders of family certificates in cases where the person from whose pay of allowances the sum comprised in the receipt has been assigned is a non-commissioned officer or soldier of the said Forces and serving in such capacity ; (*f*) for pensions or allowances by persons receiving such pensions or allowances in respect of their service as such non-commissioned officers or soldiers, and not serving the Government in any other capacity ; (*g*) given by a patel for land-revenue of taxes collected by him ; (*h*) given for money or securities for money deposited in the hands of any banker, to be accounted for ; provided that the same is not expressed to be received of, or by the hands of, any other than the person to whom the same is to be accounted for ; provided also that this exemption shall not extend to a receipt or acknowledgment for any sum paid or deposited for or upon a letter of allotment of a share, or in respect of a call upon any scrip or share of, or in, any incorporated company or other body corporate or such proposed or intended company or body or in respect of a debenture being a marketable security.	
52. Re-conveyance of Mortgaged Property— (*a*) if the consideration for which the property was mortgaged does not exceed Rs. 1,000 ;	The same duty as a Conveyance (No. 22) for the amount of such consideration as set forth in Re-conveyance.
(*b*) in any other case	Ten rupees.

(Schedule I.)

Description of Instrument	Proper Stamp-duty
53. Release.—That is to say any instrument [1][(not being such a release as is provided for by section 23 A)] whereby a person renounces a claim upon another person or against any specified property—	
(*a*) if the amount or value of the claim does not exceed Rs. 1,000.	The same duty as a Bond (No. 14) for such amount or value as set forth in the Release.
(*b*) in any other case	Five rupees.
54. Respondentia Bond—That is to say, any instrument securing a loan on the cargo-laden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination.	The same duty as a Bond (No. 14) for the amount of the loan secured.
Revocation of any Trust or Settlement—*See* SETTLEMENT (No. 56); TRUST (No 62).	
55. Security Bond or Mortgage-Deed—Executed by way of security for the due execution of an office, or to account for money or other property received by virtue thereof or executed by a surety to secure the due performance of a contract—	
(*a*) when the amount secured does not exceed Rs. 1,000 ;	The same duty as a Bond (No. 14) for the amount secured.
(*b*) in any other case	Five rupees.
Exemptions.	
Bond or other instrument, when executed—	
(*a*) by any person for the purpose of guaranteeing that the local income derived from private subscriptions to a charitable dispensary or hospital or any other object of public utility shall not be less than a specified sum per mensem ;	
(*b*) executed by persons taking advances under the Land Improvement Loans Act, 1890, or Section 194 of the Mysore Land Revenue Code, 1888, or by their sureties, as security for the repayment of such advances ;	

1. These words were inserted by Act II of 1908.

(*Schedule I.*)

Description of Instrument	Proper Stamp-duty
56.—Security Bond or Mortgage Deed—*concld.* (c) executed by officers of Government or their sureties to secure the due execution of an office or the due accounting for money or other property received by virtue thereof.	
56. Settlement— A.—INSTRUMENT OF (including a deed of dower)	The same duty as Bond (No. 14) for a sum equal to the amount or value of the property settled as set forth in such settlement. Provided that where an agreement to settle is stamped, the stamp required for an instrument of settlement, and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed eight annas.
Exemption. Deed of dower executed on the occasion of a marriage between Mohamedans.	
B.—REVOCATION OF— *See also* TRUST (No. 62.)	The same duty as a Bond (No. 14) for a sum equal to the amount or value of the property concerned as set forth in the Instrument of Revocation but not exceeding ten rupees.
57. Share Warrants.—To bearer ssued under the *Mysore Companies Act, 1895.*	Three-quarters of the duty payable on a Conveyance (No. 22) for a consideration equal to the nominal amount of the shares specified in the warrant.

(*Schedule I.*)

Description of Instrument	Proper Stamp-duty
57. Share Warrants—*concld.*	
Exemption.	
Share warrant when issued by a company in pursuance of the *Mysore Companies Act, 1895*, section 30, to have effect only upon payment, as composition for that duty, to the Deputy Commissioner of Stamp revenue of— (a) three-quarters per centum of the whole subscribed capital of the company, or (b) if any company which has paid the said duty or composition in full, subsequently issues an addition to its subscribed capital..... three-quarters per centum of the additional capital so issued.	
Scrip—*See* CERTIFICATE (No. 18).	
58. Shipping Order.—For or relating to the conveyance of goods on board of any vessel.	[1][One and a half annas].
59. Surrender of Lease—	
(a) when the duty with which the lease is chargeable does not exceed five rupees.	The duty with which such lease is chargeable.
(b) in any other case	Five rupees.
Exemption.	
Surrender of lease, when such lease is exempted from duty.	
60. Transfer.—(Whether with or without consideration)—	
(*a*) of shares in an incorporated company or other body corporate ;	One-quarter of the duty payable on a Conveyance (No. 22) for a consideration equal to the value of the share.

1. Substituted by Act 11 of 1954.

(*Schedule I.*)

Description of Instrument	Proper Stamp-duty
60. Transfer—*concld.*	
(b) of debentures, being marketable securities, whether the debenture is liable to duty or not except debentures provided for by section 8;	One-quarter of the duty payable on a Conveyance (No. 22) for a consideration equal to the face amount of the debenture.
(c) of any interest secured by a bond, mortgage-deed or policy of insurance,—	
(i) if the duty on such bond, mortgage-deed or policy does not exceed five rupees;	The duty with which such bond, mortgage-deed or policy of insurance is chargeable.
(ii) in any other case	Five rupees.
(d) of any trust-property without consideration from one trustee to another trustee or from a trustee to a beneficiary;	Five rupees or such smaller amount as may be chargeable under clauses (*a*) to (*c*) of this Article.
Exemptions.	
Transfers by endorsement— (a) of a bill of exchange, cheque or promissory note; (b) of a bill of lading, delivery order, warrant for goods, or other mercantile document of title to goods; (c) of a policy of insurance; (d) of securities of the Government of India. *See also section* 8.	
61. Transfer of Lease.—By way of assignment and not by way of under-lease.	The same duty as a Conveyance (No. 22) or a consideration equal to the amount of the consideration for the transfer.
Exemption.	
Transfer of any lease exempt from duty.	

(*Schedule I.*)

Description of Instrument	Proper Stamp-duty
62. Trust—	
A.—DECLARATION—of or concerning, any property when made by any writing not being a WILL.	The same duty as a Bond (No. 14) for a sum equal to the amount or value of the property concerned as set forth in the instrument but not exceeding fifteen rupees.
B.—REVOCATION OF—of or concerning any property when made by any instrument other than a WILL.	The same duty as a Bond (No. 14) for a sum equal to the amount or value of the property concerned as set forth in the instrument but not exceeding ten rupees.
See also Settlement (No. 56).	
Valuation.—*See* APPRAISEMENT (No. 8).	
63. Warrants for goods.—That is to say, any instrument evidencing the title of any person therein named, or his assigns or the holder thereof to the property in any goods lying in or upon any dock, ware-house or wharf such instrument being signed or certified by or on behalf of the person in whose custody such goods may be.	Four annas

(*Schedule I-A.*)

STAMP DUTY ON CERTAIN INSTRUMENTS UNDER THE MYSORE STAMP (AMENDMENT) ACT, 1922.

(*See Section 3, first proviso*).

Description of Instrument	Proper Stamp-duty
1. Administration Bond.—Including a bond given under section 256 of the Indian Succession Act, 1865, section 6 of the Government Savings Banks Act, 1873, section 76 of the Probate and Administration Act, 1914, or section 9 or section 10 of the Succession Certificate Act, 1901 ;	
(*a*) where the amount does not exceed Rs. 1,000 ;	[1][Three-fourths of duty for such amount as a Bond.]
(*b*) in any other case	[1][Fifteen rupees.]
2. Adoption Deed.—That is to say, any instrument (other than a WILL), recording an adoption or conferring or purporting to confer an authority to adopt.	[1][Twenty-two rupees eight annas.]
3.—Affidavit.—Including an affirmation or declaration in the case of persons by law allowed to affirm or declare instead of swearing.	[1][Three rupees.]
Exemptions.	
Affidavit or declaration in writing when made— (*a*) for the immediate purpose of being filed or used in any Court or before the officer of any Court ; or, (*b*) for the sole purpose of enabling any person to receive any pension or charitable allowance.	
[1][**4.—Agreement or memorandum of an agreement.**— (*a*) if relating to the sale of a bill of exchange ;	Six annas.
(*b*) if relating to the sale of a Government security or share in an incorporated company or other body corporate ;	Subject to a maximum of thirty rupees, three annas for every Rs. 10,000 or part thereof, of the value of the security or share.
(*c*) if not otherwise provided for ...	One rupee eight annas.

1. Substituted by Mysore Act 11 of 1964.

(*Schedule I-A.*)

Description of Instrument	Proper Stamp-duty
4.—Agreement or memorandum of an agreement—*contd.* *Exemption.* Agreement or memorandum of agreement for or relating to the sale of goods or merchandise exclusively, not being a note or memorandum chargeable under No. 34.] **Agreement to lease.**—*See* Lease (No. 28).	
5.—Agreement relating to deposit of title-deeds, pawn or pledge.—that is to say, any instrument evidencing an agreement relating to— (1) the deposit of title-deeds or instruments constituting or being evidence of the title to any property whatever (other than a marketable security), or, (2) the pawn or pledge of movable property, where such deposit, pawn or pledge has been made by way of security for the repayment of money advanced or to be advanced by way of loan or an existing or future debt—	

(*Schedule I-A.*)

[1][Description of Instrument	Proper Stamp-duty		
	If drawn singly	If drawn in set of two for each part of the set	If drawn in set of three for each part of the set
(*a*) if such loan or debt is repayable on demand or more than three months from the date of the instrument evidencing the agreement.	Rs. a. p.	Rs. a. p.	Rs. a. p.
(i) when the amount of the loan or debt does not exceed Rs. 200	0 9 0	0 6 0	0 3 0
(ii) when it exceeds Rs. 200 but does not exceed ... 400	1 2 0	0 7 0	0 6 0
Do 400 do 600	1 11 0	0 15 0	0 9 0
Do 600 do 800	2 4 0	1 2 0	0 12 0
Do 800 do 1,000	2 13 0	1 8 0	0 15 0
Do 1,000 do 1,200	3 6 0	1 11 0	1 2 0
Do 1,200 do 1,600	4 8 0	2 4 0	1 8 0
Do 1,600 do 2,500	6 12 0	3 6 0	2 4 0
Do 2,500 do 5,000	13 8 0	6 12 0	4 8 0
(iii) When it exceeds Rs. 5,000 but does not exceed ... 7,500	20 4 0	10 2 0	6 12 0
Do 7,500 do 10,000	27 0 0	13 8 0	9 0 0
Do 10,000 do 15,000	40 8 0	20 4 0	13 8 0
Do 15,000 do 20,000	54 0 0	27 0 0	18 0 0
Do 20,000 do 25,000	67 8 0	33 12 0	22 8 0
Do 25,000 do 30,000	81 0 0	40 8 0	27 0 0
and for every additional Rs. 10,000 or part thereof in excess of Rs. 30,000 ;	27 0 0	13 8 0	9 0 0]
(*b*) if such loan or debt is repayable not more than three months from the date of such instrument.	Half the duty payable on a loan or debt under clause (*a*) (i) or clause (*a*) (ii) for the amount secured [2][(stamp duty of quarter anna shall be reckoned as half anna and three quarter anna as one anna.)]		

1. Substituted by Act 11 of 1954.
2. Added by Act 11 of 1954.

(*Schedule I-A.*)

Description of Instrument	Proper Stamp-duty
Exemption. Instrument of pawn or pledge of goods if unattested.	
6. Appointment in execution of a power, whether of trustees or of property, movable or immovable where made by any writing not being a will.	[1][Thirty-seven rupees eight annas.]
7. Appraisement or valuation made otherwise than under an order of the Court in the course of a suit—	
(*a*) where the amount does not exceed Rs. 1,000.	The same duty as a [1][Bottomry Bond] for such amount.
(*b*) In any other case	[1][Fifteen rupees.]
Exemptions. (*a*) Appraisement or valuation made for the information of one party only, and not being in any manner obligatory between parties either by agreement or operation of law. (*b*) Appraisement of crops for the purpose of ascertaining the amount to be given to landlord as rent.	
8. Apprenticeship deed, including every writing relating to the service or tuition of any apprentice, clerk or servant placed with any master to learn any profession, trade or employment.	Seven rupees eight annas.
Exemption. Instrument of apprenticeships executed by a Magistrate under the Apprentices Act, 1850, or by which a person is apprenticed by, or at the charges of, any public charity.	
9. Articles of Association of a Company.—	[1][One hundred rupees.]
Exemption. Articles of any Association not formed for profit and registered under section 26 of the [1][Indian Companies Act, 1913.] *See* also Memorandum of Association of a Company.	

[1] Substituted by Act 11 of 1954.

(*Schedule I-A.*)

Description of Instrument	Proper Stamp-duty
Assignment.—*See* Conveyance, transfer and transfer of lease, as the case may be. **Attorney.**—*See* Power of attorney. **Authority to adopt.**—*See* Adoption Deed.	
[1][**10. Award.**—that is to say, any decision in writing by an arbitrator or umpire, not being an award directing a partition, on a reference made otherwise than by an order of the Court in the course of a suit—	
(*a*) where the amount or value of the property to which the award relates, as set forth in such award, does not exceed Rs. 1,000.	The same duty as a Bottomry Bond for such amount.
(*b*) if it exceeds Rs. 1,000 but does not exceed Rs. 5,000.	Twenty rupees.
And for every additional Rs. 1,000 or part thereof in excess of Rs. 5,000.	One rupee subject to a maximum of one hundred rupees.]
11. Bill of Lading.—(including a through bill of lading).[2]	Six annas.
Exemption.	
Bill of lading when executed out of [3][State of Mysore except Bellary District] and relating to property to be delivered in [3][State of Mysore except Bellary District].	
[1][**12. Bond**—as defined by section 2 (5), not being a **Debenture,** and not being otherwise provided for by this Act, or by the Mysore Court-fees Act, 1900.	
Where the amount or value secured does not exceed Rs. 10;	Four annas.
Where it exceeds Rs. 10 and does not exceed Rs. 50;	Eight annas.
Where it exceeds Rs. 50 and does not exceed Rs. 100;	One rupee.
Where it exceeds Rs. 100 and does not exceed Rs. 200;	Two rupees eight annas.
Where it exceeds Rs. 200 and does not exceed Rs. 300;	Three rupees twelve annas.
Where it exceeds Rs. 300 and does not exceed Rs. 400;	Five rupees.
Where it exceeds Rs. 400 and does not exceed Rs. 500;	Six rupees four annas.
Where it exceeds Rs. 500 and does not exceed Rs. 600;	Nine rupees.

1. Substituted by Act 11 of 1954.
2. N. B.—If a bill of lading is drawn in parts, the proper stamp therefor must be borne by each one of the set.
3. See the Mysore Adaptation of Laws Order, 1953.

(*Schedule I-A.*)

Description of Instrument	Proper Stamp-duty
12. Bond— *concld.*	
Where it exceeds Rs. 600 and does not exceed Rs. 700;	Ten rupees eight annas.
Where it exceeds Rs. 700 and does not exceed Rs. 800;	Twelve rupees.
Where it exceeds Rs. 800 and does not exceed Rs. 900;	Thirteen rupees eight annas.
Where it exceeds Rs. 900 and does not exceed Rs. 1,000;	Fifteen rupees.
And for every Rs. 500 or part thereof in excess of Rs. 1,000;	Seven rupees eight annas.
Exemption	
Bond, when executed by—	
Any person for the purpose of guaranteeing that the local income derived from private subscription to a charitable dispensary or hospital or any other object of public utility, shall not be less than a specified sum per mensem.]	
[1][**13. Bottomry Bond**, that is to say, any instrument whereby the master of a sea-going ship borrows money on the security of the ship to enable him to preserve the ship or prosecute her voyage.—	
Where the amount or value secured does not exceed Rs. 10;	Six annas.
Where it exceeds Rs. 10 and does not exceed Rs. 50;	Twelve annas.
Where it exceeds Rs. 50 and does not exceed Rs. 100;	One rupee eight annas.
Where it exceeds Rs. 100 and does not exceed Rs. 200;	Three rupees.
Where it exeeeds Rs. 200 and does not exceed Rs. 300;	Four rupees eight annas.
Where it exceeds Rs. 300 and does not exceed Rs. 400;	Six rupees.
Where it exceeds Rs. 400 and does not exceed Rs. 500:	Seven rupees eight annas.
Where it exceeds Rs. 500 and does not exceed Rs. 600;	Nine rupees.
Where it exceeds Rs. 600 and does not exceed Rs. 700;	Ten rupees eight annas.
Where it exceeds Rs. 700 and does not exceed Rs. 800:	Twelve rupees.
Where it exceeds Rs. 800 and does not exceed Rs. 900;	Thirteen rupees eight annas.
Where it exceeds Rs. 900 and does not exceed Rs. 1,000;	Fifteen rupees.
And for every Rs. 500 or part thereof in excess of Rs. 1,000;	Seven rupees eight annas.]

1. Substituted by Mysore Act 11 of 1954.

(*Schedule I-A.*)

Description of Instrument	Proper Stamp-duty
14. Cancellation.—Instrument of (including any instrument by which any instrument previously executed is cancelled), if attested and not otherwise provided for.	[1][Fifteen rupees]
See also (**Release**) Revocation of Settlement. Surrender of Lease, Revocation of Trust.	
15. Certificate of Sale.—(In respect of each property put up as a separate lot and sold), granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Deputy Commissioner or other Revenue Officer—	
(*a*) where the purchase money does not exceed Rs. 10;	[1][Six annas]
(*b*) where the purchase money exceeds Rs. 10 but does not exceed Rs. 25	[1][Twelve annas]
(*c*) in any other case	The same duty as a conveyance for a consideration equal to the amount of the purchase-money only.
16. Charter Party.—That is to say, any instrument (except an agreement for the hire of a tug-steamer) whereby a vessel or some specified principal part thereof is let for the specified purposes of the charterer whether it includes a penalty clause or not.	[1][Three rupees.]
17. Composition-deed.—That is to say, any instrument executed by a debtor, whereby he conveys his property for the benefit of his creditors, or whereby payment of a composition or dividend on their debts is secured to the creditors, or whereby provision is made for the continuance of the debtor's business, under the supervision of inspectors or under letters of license, for the benefit of his creditors.	[1][Twenty-two rupees eight annas.]
[1][**18. Conveyance.**—(As defined by section 2 (9), not being a transfer charged or exempted under No. 48).—	
Where the amount or value of the consideration for such conveyance as set forth therein does not exceed Rs 50;	One rupee.
Where it exceeds Rs. 50 but does not exceed Rs. 100;	Two rupees eight annas.
Where it exceeds Rs. 100 but does not exceed Rs. 200;	Five rupees.
Where it exceeds Rs. 200 but does not exceed Rs. 300;	Seven rupees eight annas.

1. Substituted by Mysore Act 11 of 1954.

(Schedule I-A.)

Description of Instrument	Proper Stamp-duty
Where it exceeds Rs. 300 but does not exceed Rs. 400;	Ten rupees.
Where it exceeds Rs. 400 but does not exceed Rs. 500;	Twelve rupees eight annas.
Where it exceeds Rs. 500 but does not exceed Rs. 600;	Fifteen rupees.
Where it exceeds Rs. 600 but does not exceed Rs. 700;	Seventeen rupees eight annas.
Where it exceeds Rs. 700 but does not exceed Rs. 800;	Twenty rupees.
Where it exceeds Rs. 800 but does not exceed Rs. 900;	Twenty-two rupees eight annas.
Where it exceeds Rs. 900 but does not exceed Rs. 1,000;	Twenty-five rupees.
And for every Rs. 500 or part thereof in excess of Rs. 1,000.	Twelve rupees eight annas.
Exemption Assignment of copyright under the Indian Copyright Act, 1914, section 5.]	
Co-Partnership-deed: *See* Partnership.	
19. Copy or Extract.—Certified to be a true copy or extract by or by order of any public officer and not chargeable under the law for the time being in force relating to court fees—	
(*i*) if the original was not chargeable with duty, or if the duty with which it was chargeable does not exceed one rupee;	[1][One rupee eight annas.]
(*ii*) in any other case	[1][Two rupees eight annas.]
Exemption. Copy of any paper which a public officer is expressly required by law to make or furnish for record in any public office or for any public purpose.	
20. Counterpart or Duplicate—Of any instrument, chargeable with duty and in respect of which the proper duty has been paid—	
(*a*) if the duty with which the original instrument is chargeable does not exceed one rupee four annas;	The same duty as is payable on the original.
(*b*) in any other case	[1][Two rupees eight annas.]
Exemption Counterpart of any lease granted to a cultivator, when such lease is exempted from duty.	

1. Substituted by Act 11 of 1954.

(*Schedule I-A.*)

Description of Instrument	Proper Stamp-duty
21. Customs-bond.—	
(*a*) where the amount does not exceed Rs. 1,000.	The same duty as a [1][Bottomry Bond] for such amount.
(*b*) in any other case	[1][Twenty rupees.]
22. Debenture.—(Whether a mortgage debenture or not), being a marketable security transferable—	
(*a*) by endorsement or by a separate instrument of transfer.	The same duty as a Bond[2] for the same amount.
(*b*) by delivery	The same duty as a conveyance for a consideration equal to the face amount of the debenture.
Explanation.—The term "Debenture" includes any interest coupons attached thereto, but the amount of such coupons shall not be included in estimating the duty.	
Exemption.	
A debenture issued by an incorporated company or other body corporate in terms of a registered mortgage-deed, duly stamped in respect of the full amount of debentures to be issued thereunder whereby the company or body borrowing makes over, in whole or in part their property to trustees for the benefit of the debenture-holders; provided that the debentures so issued are expressed to be issued in terms of the said mortgage-deed.	
See also Bond and sections 8 and 55	
DECLARATION OF ANY TRUST—*See* Trust	
DEPOSIT OF TITLE DEEDS—*See* Agreement relating to Deposit of Title-deeds, Pawn or Pledge.	
DISSOLUTION OF PARTNERSHIP.—*See* Partnership.	
23. Divorce.—Instrument of, that is to say, any instrument by which any person effects the dissolution of his marriage.	[1][Three rupees.]
DOWER.—Instrument of—*See* Settlement.	
DUPLICATE.—*See* Counterpart.	
[3][**23-A.** *Entry as an Advocate on the roll of the High Court* under the Indian Bar Councils Act, 1926 (Central Act No. XXXVIII of 1926) or in exercise of powers conferred on the said court by the Legal Practitioners Act, 1879 (Central Act No. XVIII of 1879).]	Three hundred rupees.
[4] * * *	

1. Substituted by Act 11 of 1954.
2. The duty on a Bond or Conveyance referred to in this Article is the duty which was leviable on such instruments before 1st April 1954.
3. Article 23-A inserted by Act IX of 1952.
4. Paragraph relating to Exemption omitted by Act 9 of 1953.

(Schedule I-A.)

Description of Instrument	Proper Stamp-duty
24. Exchange of Property.—Instrument of.	The same duty as a Conveyance for a consideration equal to the value of the property of greatest value as set forth in such instrument.
EXTRACT.—*See* Copy.	
25. Further Charge.—Instrument of, that is to say, any instrument imposing a further charge on mortgaged property—	
(*a*) when the original mortgage is one of the description referred to in clause (*a*) of Article No. 31 (that is, with possession);	The same duty as a Conveyance for a consideration equal to the amount of the further charge secured by such instrument.
(*b*) when such mortgage is one of the description referred to in clause (*b*) of Article No. 31 (that is, without possession)—	
(*i*) if at the time of execution of the instrument of further charge, possession of the property is given or agreed to be given under such instrument;	The same duty as a Conveyance for a consideration equal to the total amount of the charge (including the original mortgage and any further charge already made), less the duty already paid on such original mortgage and further charge.
(*ii*) if possession is not so given ...	The same duty as a [1][Bottomry Bond] for the amount of the further charge secured by such instrument.
26. Gift.—Instrument of, not being a Settlement or Will or Transfer.	The same duty as a Conveyance for a consideration equal to the value of the property as set forth in such instrument.
HIRING AGREEMENT OR agreement for service.—*See* Agreement ...	
27. Indemnity bond ...	The same duty as a Security Bond for the same amount.
INSPECTORSHIP DEED—*See* Composition deed.	
28. Lease.—Including an under-lease or sub-lease and any agreement to let or sub-let—	
(*a*) where by such lease, the rent is fixed and no premium is paid or delivered—	
(*i*) where the lease purports to be for a term of less than one year.	The same duty as a [1][Bottomry Bond] for the whole amount payable or deliverable under such lease.

1. Substituted by Act 11 of 1954.

(*Schedule I-A.*)

Description of Instrument	Proper Stamp-duty
28. **Lease**—*contd.*	
(*ii*) Where the lease purports to be for a term of not less than one year, but not more than five years ;	The same duty as a [1][Bottomry Bond] for the amount or value of the average annual rent reserved.
(*iii*) where the lease purports to be for a term exceeding five years but not exceeding ten years ;	The same duty as a Conveyance for a consideration equal to the amount or value of the average annual rent reserved.
(*iv*) where the lease purports to be for a term exceeding ten years, but not exceeding twenty years ;	The same duty as a Conveyance for a consideration equal to twice the amount or value of the average annual rent reserved.
(*v*) where the lease purports to be for a term exceeding twenty years, but not exceeding thirty years ;	The same duty as a Conveyance for a consideration equal to three times the amount or value of the average annual rent reserved.
(*vi*) where the lease purports to be for a term exceeding thirty years, but not exceeding one hundred years ;	The same duty as a Conveyance for a consideration equal to four times the amount or value or the average annual rent reserved.
(*vii*) where the lease purports to be for a term exceeding one hundred years or in perpetuity ;	The same duty as a Conveyance for a consideration equal to one-sixth of the whole amount of rents which would be paid or delivered in respect of the first fifty years of the lease.
(*viii*) where the lease does not purport to be for any definite term ;	The same duty as a Conveyance for a consideration equal to three times the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.
(*a*) where the lease is granted for a fine or premium, or for money advanced and where no rent is reserved ;	The same duty as a Conveyance for a consideration equal to the amount or value of such fine or premium or advance as set forth in the lease.

1. Substituted by Act 11 of 1954.

(*Schedule I-A.*)

Description of Instrument	Proper Stamp-duty
28. Lease—*contd.* (*b*) where the lease is granted for a fine or premium or for money advanced in addition to rent reserved.	The same duty as a Conveyance for a consideration equal to the amount or value of such fine or premium, or advance as set forth in the lease, in addition to the duty which would have been payable on such lease, if no fine or premium or advance had been paid or delivered: Provided that, in any case when an agreement to lease is stamped with the *ad valorem* stamp required for a lease and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed [1][one rupee eight annas.]
Exemption. Lease executed in the case of a cultivator and for the purpose of cultivation (including a lease of trees for the production of food or drink), without the payment of delivery of any fine or premium, when a definite term is expressed and such term does not exceed one year, or when the average annual rent reserved does not exceed one hundred rupees. *Explanation.*—When a lessee undertakes to pay any recurring charge, such as Government revenue, the landlord's share of cesses, or the owner's share of municipal rates or taxes, which is by law recoverable from the lessor, the amount so agreed to be paid by the lessor shall be deemed to be part of the rent. LETTER OF GUARANTEE.—*See* Agreement.	

1. Substituted by Act 11 of 1954.

(*Schedule I-A.*)

Description of instrument	Proper Stamp-duty
29. Letter of license.—That is to say, any agreement between a debtor and his creditors that the latter shall, for a specified time suspend their claims and allow the debtor to carry on business at his own discretion.	[1][Twenty-two rupees, eight annas.]
30. Memorandum of Association of a Company.—	
(*a*) if accompanied by articles of association under Section 17 of [1][The Indian Companies Act, 1913.]	[1][Sixty rupees.]
(*b*) if not so accompanied	[1][One hundred and sixty rupees.]
Exemption.	
Memorandum of any association not formed for profit and registered under Section 26 of [1][The Indian Companies Act, 1917].	
31. Mortgage-deed.—Not being an agreement relating to Deposit of title deeds Pawn or Pledge, Bottomry Bond, Mortgage of a Crop, Respondentia Bond, or Security Bond.	
(*a*) when possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given ;	The same duty as a Conveyance for a consideration equal to the amount secured by such deed.
(*b*) when possession is not given or agreed to be given as aforesaid ;	The same duty as a [1][Bottomry Bond] for the amount secured by such deed.
Explanation.—A mortgagor who gives to the mortgagee a power-of-attorney to collect rents or a lease of the property mortgaged or part thereof, is deemed to give possession within the meaning of this article ;	
(*c*) when a collateral or auxiliary or additional or substituted security, or by way of further assurance for the abovementioned purpose where the principal or primary security is duly stamped—	
for every sum secured not exceeding Rs. 1,000	[1][One rupee eight annas.]
and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000.	Do

1. Substituted by Act 11 of 1954.

(*Schedule I-A.*)

Description of Instrument	Proper Stamp-duty
31. Mortgage-deed—*concld.*	
Exemptions.	
(1) Instruments executed by persons taking advances under the Land Improvement Loans Act, 1890, section 194 of the Mysore Land Revenue Code, 1888, or by their sureties as security for the repayment of such advances.	
(2) Letter of hypothecation accompanying a bill of exchange.	
32. Mortgage of a crop including any instrument evidencing an agreement to secure the repayment of a loan made upon any mortgage of a crop, whether the crop is or is not in existence at the time of the mortgage—	
(*a*) when the loan is repayable not more than three months from the date of the instrument—	
for every sum secured not exceeding Rs. 200 ;	[1][Four annas].
and for every Rs. 200 or part thereof secured in excess of Rs. 200 ;	Do
(*b*) when the loan is repayable more than three months, but not more than eighteen months from the date of the instrument—	
for every sum secured not exceeding Rs. 100 ;	[1][Six annas].
and for every Rs. 100 or part thereof secured in excess of Rs. 100.	[1][Six annas].
33. Notarial Act—That is to say, any instrument, endorsement, note, attestation, certificate, or entry not being a Protest made or signed by a Notary Public in the execution of the duties of his office, or by any other person lawfully acting as a Notary Public.	[1][Two rupees four annas].
See also Protest of Bill or Note.	
34. Note or Memorandum—Sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal—	
(*a*) of any goods exceeding in value twenty rupees ;	[1][Six annas].
(*b*) of any stock or marketable security exceeding in value twenty rupees.	[1][Subject to a maximum of thirty rupees four annas for every rupees ten thousand or part thereof of the value of the stock or security].

1. Substituted by Act 11 of 1954.

(Schedule 1-A.)

Description of Instrument	Proper Stamp-duty
35. Note of Protest by the Master of a Ship—*See* also Protest by the Master of a ship.	One rupee.
36. Partition.—Instrument of [as defined by Section 2 (15).]	The same duty as a [1][Bottomry Bond] for the amount of the value of the separated share or shares of the property.

N. B.—The largest share remaining after the property is partitioned (or if there are two or more shares of equal value and not smaller than any of the other shares, than one of such equal shares) shall be deemed to be that from which the other shares are separated:

Provided always that—

(*a*) when an instrument of partition containing an agreement to divide property in severalty is executed and a partition is effected in pursuance of such agreement, the duty chargeable upon the instrument effecting such partition shall be reduced by the amount of duty paid in respect of the first instrument, but shall not be less than [1][one rupee eight annas] ;

(*b*) when land is held on Revenue Settlement for a period not exceeding thirty years and paying the full assessment, the value for the purpose of duty shall be calculated at not more than five times the annual revenue;

(*c*) where a final order for effecting a partition passed by any Revenue Authority or any Civil Court, or an award by an arbitrator directing a partition, is stamped with the stamp required, for an instrument of partition and an instrument of partition in pursuance of such order or award is subsequently executed, the duty on such instrument shall not exceed [1][one rupee eight annas].

1. Substituted by Act 11 of 1964.

(*Schedule I-A.*)

Description of Instrument	Proper Stamp-duty
37. Partnership—	
A.—Instrument of—	
(*a*) where the capital of the partnership does not exceed Rs. 500;	[1][Ten rupees.]
(*b*) in any other case	[1][Forty rupees.]
B.—Dissolution of—	
Pawn or Pledge—*See* Agreement relating to Deposit of Title-deeds Pawn or Pledge.	[1][Twenty rupees.]
38. Power-of-Attorney—[As defined by Section 2 (21)] not being a Proxy—	
(*a*) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents;	Twelve annas.
(*b*) when authorizing one person or more to act in a single transaction other than the case mentioned in clause (*a*);	One rupee eight annas
(*c*) when authorizing not more than five persons to act jointly and severally in more than one transaction or generally;	[1][Eleven rupees four annas.]
(*d*) when authorizing more than five but not more than ten persons to act jointly and severally in more than one transaction or generally;	[1][Twenty-two rupees eight annas.]
(*e*) when given for consideration and authorizing the attorney to sell any immovable property;	The same duty as a Conveyance for the amount of the consideration.
(*f*) in any other case	[1][Two rupees four annas] for each person authorized.
Explanation—For the purposes of this article more persons than one when belonging to the same firm shall be deemed to be one person.	N. B.—The term "Registration" includes every operation incidental to Registration under the Mysore Registration Act, 1903.
39. Protests of bill or note, that is to say, any declaration in writing made by a Notary Public, or other person lawfully acting as such attesting the dishonour of a bill of exchange or promissory note.	[1][Two rupees.]

1. Substituted by Act 11 of 1951.

(*Schedule I-A.*)

Description of Instrument	Proper Stamp-duty
40. Protest by the Master of a ship, that is to say, any declaration of the particulars of her voyage drawn up by him with a view to the adjustment of losses or the calculation of average, and every declaration in writing made by him against the charterers or the consignees for not loading or unloading the ship, when such declaration is attested or certified by a Notary Public or other person lawfully acting as such.	Two rupees.
See also Note of Protest by the Master of a ship.	
41. Reconveyance of mortgaged property—	
(*a*) If the consideration for which the property was mortgaged does not exceed Rs. 1,000.	The same duty as a Conveyance for the amount of such consideration as set forth in the reconveyance.
(*b*) In any other cases	[1][Thirty rupees.]
42. Release, that is to say, any instrument (not being such a release as is provided for by Section 23-A), whereby a person renounces a claim upon another person or against any specified property—	
(*a*) if the amount of value of the claim does not exceed Rs. 1,000.	The same duty as a [1][Bottomry Bond] for such amount or value as set forth in the release.
(*b*) in any other case	[1][Fifteen rupees.]
43. Respondentia Bond, that is to say, any instrument securing a loan on the cargo laden or to be laden on board a ship and making repayment contingent on the arrival of the cargo at the port of destination.	The same duty as a [1][Bottomry Bond] for the amount of the loan secured.
REVOCATION OF ANY TRUST OR SETTLEMENT—	
See Settlement ; Trust	
44. Security Bond or Mortgage deed.—executed by way of security for the due execution of an office, or to account for money or other property received by virtue thereof, or executed by a surety to secure the due performance of a contract—	
(*a*) when the amount secured does not exceed Rs. 1,000 ;	The same duty as a [1][Bottomry Bond] for the amount secured.

1. Substituted by Act 11 of 1954.

(Schedule I-A.)

Description of Instrument	Proper Stamp-duty
44. Security Bond or Mortgage deed—*concld.*	
(*b*) In any other case ...	[1][Fifteen rupees.]
Exemptions.	
Bond or other instrument, when executed— (*a*) By any person for the purpose of guaranteeing that local income derived from private subscriptions to a charitable dispensary or hospital, or any other object of public utility, shall not be less than a specified sum per mensem ; (*b*) executed by persons taking advances under the Land Improvement Loans Act, 1890, or section 194 of the Mysore Land Revenue Code, 1888, or by their sureties, as security for the repayment of such advances ; (*c*) executed by officers of Government or their sureties to secure the due execution of an office, or the due accounting for money or other property received by virtue thereof :	
45. Settlement—	
A.—Instrument of—(including a deed of dower).	The same duty as a [1][Bottomry Bond] for a sum equal to the amount or value of the property settled as set forth in such settlement. Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement, and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed [1][one rupee eight annas.]
Exemption.	
Deed of dower executed on the occasion of a marriage between Mahomedans.	

1. Substituted by Act 11 of 1954.

(*Schedule 1-A.*)

Description of Instrument	Proper Stamp-duty
Settlement—*concld.* B—Revocation of—	The same duty as a [1][Bottomry Bond] for a sum equal to the amount or value of the property concerned, as set forth in the instrument of Revocation, but [1][not exceeding thirty rupees.]
See also Trust. **46. Share Warrants** to bearer issued under [1][The Indian Companies Act, 1913.]	[1][One and a half times the duty payable] on a conveyance for a consideration equal to the nominal amount of the shares specified in the warrant.
Exemption. Share warrant when issued by a company in pursuance of [1][The Indian Companies Act, 1913], section 43, to have effect only upon payment, as Composition for that duty, to the Deputy Commissioner of stamp revenue of— (*a*) [1][one and half per centum]of the whole subscribed capital of the company ; or (*b*) if any company which has paid the said duty or composition in full, subsequently issues an addition to its subscribed capital—[1][one and a half per centum] of the additional capital so issued.	
47. Surrender of Lease.— (*a*) when the duty with which the lease is chargeable does not exceed [1][fifteen rupees.] (*b*) in any other case.	The duty with which such lease is chargeable. [1][Fifteen rupees.]
Exemption. Surrender of lease, when such lease is exempted from duty.	
48. Transfer—(whether with or without consideration)—	

1. Substituted by Act 11 of 1954.

(*Schedule 1-A.*)

Description of Instrument	Proper Stamp-duty
48. Transfer—*concld.*	
(*a*) of shares in an incorporated company or other body corporate ;	[1]One-half of the duty payable on a Conveyance for a consideration equal to the value of the share.
(*b*) of debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8 ;	One-half of the duty payable on a Conveyance for a consideration equal to the face amount of the debenture.
(*c*) of any interest secured by a bond, mortgage deed or policy of insurance,—	
(i) if the duty on such bond, mortgage deed or policy does not exceed five rupees ;	The duty with which such bond, mortgage deed or policy of insurance is chargeable.
(ii) in any other case	Seven rupees eight annas.
(*d*) of any trust-property from one trustee to another trustee or from a trustee to a beneficiary.	Seven rupees eight annas or such smaller amount as may be chargeable under clause (*a*) to (*c*) of this article.
Exemptions.	
Transfers by endorsement—	
(*a*) of a bill of exchange, cheque or promissory note ;	
(*b*) of a bill of lading, delivery order, warrant for goods, or other mercantile document to title to goods ;	
(*c*) of a policy of insurance ;	
(*d*) of securities of the Government of India and of Mysore.	
See also section 8.	
49. Transfer of lease by way of assignment, and not by way of under lease.	The same duty as a conveyance for a consideration equal to the amount of the consideration for the transfer.

1. The duty payable on a conveyance referred in clause (*a*) of this Article refers to the duty which was leviable on a conveyance before 1st April 1954.

(*Schedule I-A.*)

Description of Instrument	Proper Stamp-duty
49. Transfer of lease—*concld.* *Exemption.* Transfer of any lease exempt from duty.	
50. Trust.— Declaration of—of, or concerning, any property when made by any writing not being a will.	The same duty as a [1][Bottomry Bond] for a sum equal to the amount or value of the property concerned, as set forth in the instrument but not exceeding [1][forty-five rupees.]
B.—Revocation of—of, or concerning any property when made by any instrument other than a will. *See* also Settlement. Valuation—*See* Appraisement.	The same duty as a [1][Bottomry Bond] for a sum equal to the amount or value of the property concerned, as set forth in the instrument but not exceeding [1][thirty rupees.]
51. Warrant for Goods, that is to say, any instrument evidencing the title of any person therein named, or his assigns, or the holder thereof to the property in any goods lying in or upon any dock, warehouse or wharf, such instrument being signed or certified by or on behalf of the person in whose custody such goods may be.	[1][Twelve annas.]

1. Substituted by Act 11 of 1954.

(*Schedule II.*)

SCHEDULE II.

ENACTMENTS REPEALED.

(*See Section* 79.)

No.	Year	Short title	Extent of repeal
I	1879	The Indian Stamp Act, 1879, as extended to Mysore by Notification of the Government of India, Foreign Department, Judicial, No. 99 I. J., dated the 22nd May 1879.	The whole.
XI	1894	The Mysore Inventions and Designs Act, 1894.	So much of the first schedule as relates to the Indian Stamp Act, 1879 (I of 1879).
III	1895	The Mysore Companies Act, 1895.	Section 35.

THE MYSORE COURT-FEES ACT, 1900.

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MYSORE ACT No. III OF 1900.

THE MYSORE COURT-FEES ACT, 1900.

(As amended by Acts I of 1908, III of 1911, V of 1911, II of 1912, IV of 1914, VIII of 1922, I of 1924, VI of 1927, XII of 1930, III of 1931, IV of 1951, XVIII of 1952 and 9 of 1954.)

(PASSED ON THE 21ST DAY OF APRIL 1900.)

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called the Mysore Court-Fees Act, 1900.

Extent of enactment.

It extends to the [1][whole of State of Mysore except Bellary District].

Commencement of Act.

And it shall come into force on the first day of July 1900.

Repeal of enactments.

2. On and from the first day of July 1900, the enactments mentioned in the fourth schedule shall be repealed to the extent specified in the fourth column thereof.

Chief Controlling Revenue Authority.

[2][**2A.** "Chief Controlling Revenue Authority" means the Government or such officer as the Government may, by notification in the Official Gazette, appoint in this behalf.]

[3][In this Act, unless there is anything repugnant in this subject or context, "Memorandum of appeal" shall include memorandum of cross objection.]

CHAPTER II.

FEES IN COURTS AND IN PUBLIC OFFICES.

Fees on documents filed, etc., in courts or in public offices.

3. No document of any of the kinds specified as chargeable in the first or second schedule to this Act annexed shall be filed, exhibited or recorded in any Court of Justice, or shall be received or furnished by any public officer, unless in respect of such document there be paid a

1. See the Mysore Adaptation of Laws Order, 1956.
2. Added by Act I of 1924.
3. Introduced by Act VIII of 1922.

fee of an amount not less than that indicated by either of the said schedules as the proper fee for such document.

4. The amount of fee payable under this Act in the suits next hereinafter mentioned [1][except suits for relief under section 91 or 92 of the Code of Civil Procedure, 1911], shall be computed as follows :— Computation of fees payable in certain suits :

i. In suits for money including suits for damages or compensation, or arrears of maintenance, of annuities, or of other sums payable periodically —according to the amount claimed ; — for money ;

ii. In suits for maintenance and annuities or other sums payable periodically—according to the value of the subject-matter of the suit, and such value shall be deemed to be [1][in suits for maintenance, the amount claimed to be payable for one year and in other suits] ten times the amount claimed to be payable for one year ; — for maintenance and annuities ;

iii. In suits for moveable property other than money, where the subject-matter has a market-value— according to such value at the date of presenting the plaint ; — for other moveable property having a market-value ;

iv. In suits—

(*a*) for moveable property where the subject-matter has no market-value, as, for instance, in the case of documents relating to title. — for moveable property of no market-value ;

(*b*) to enforce the right to share in any property on the ground that it is joint family property, — to enforce a right to share in joint family property ;

(*c*) to obtain a declaratory decree or order, where consequential relief is prayed, — for a declaratory decree and consequential relief ;

(*d*) to obtain an injunction, — for an injunction ;

(*e*) for a right to some benefit (not herein otherwise provided for) to arise out of land, and — for easements

(*f*) for accounts— — for accounts.

according to the amount at which the relief sought is valued in the plaint or memorandum of appeal.

1. Added by Act VIII of 1922.

Proviso. [1][Provided that in suits coming under sub-clause (*c*), in cases where the relief sought is with reference to any immoveable property, such valuation shall not be less than half the value of the immoveable property, calculated in the manner provided for by paragraph (v) of this section.]

In all such suits, the plaintiff shall state the amount at which he values the relief sought ;

for cancellation of decree or other document ; [2][iv. (A) In a suit for cancellation of a decree for money or other property having a money value, or other document securing money or other property having such value, according to the value of the subject-matter of the suit, and such value shall be deemed to be—

If the whole decree or other document is sought to be cancelled, the amount or the value of the property for which the decree was passed or the other document executed,

if a part of the decree or other document is sought to be cancelled, such part of the amount or value of the property ;]

for possession of lands, houses and gardens ; v. In suits for the possession of land, houses and gardens—according to the value of the subject-matter ; and such value shall be deemed to be—

A. where the subject-matter is land, and—

(*a*) where the land forms an entire estate, or a definite share of an estate, paying annual revenue to Government,

or forms part of such an estate and is recorded in the Deputy Commissioner's register as separately assessed with such revenue,

and such revenue is permanently settled—

[3][twenty] times the revenue so payable ;

(*b*) [4][where the land forms an entire estate, or a definite share of an estate, paying annual revenue to

1. Added by Act VIII of 1922.
2. Added by Act VIII of 1922 between paras IV and V.
3. Substituted by Act VIII of 1922.
4. Substituted by Act II of 1912, for clause (*b*) of clause (A), under sub-head V of section 4.

Government or to the holder or holders of an alienated village to which the provisions of Chapters VIII and IX of the Land Revenue Code have been extended, or forms part of such estate and is recorded as aforesaid ;

and such revenue is settled, but not permanently,—

[1][ten] times the revenue so payable;]

(*c*) where the land pays no such revenue, or has been partially exempted from such payment, or is charged with any fixed payment in lieu of such revenue,

and nett profits have arisen from the land during the year next before the date of presenting the plaint—

fifteen times such nett profits ;

but where no such nett profits have arisen therefrom—the amount at which the Court shall estimate the land with reference to the value of similar land in the neighbourhood ;

(*d*) where the land forms part of an estate paying revenue to Government, but is not a definite share of such estate and is not separately assessed as above-mentioned—the market-value of the land ;

Explanation.—The word "estate", as used in this paragraph, means any land subject to the payment of revenue, for which the proprietor or farmer or raiyat shall have executed a separate engagement to Government, or which in the absence of such engagement shall have been separately assessed with revenue ;

[2][Provided that if rules are framed under section 3 of the Mysore Suits Valuation Act, 1951 (Mysore Act XXXIX of 1951), for determining the value of land for the purposes of jurisdiction, the value so determined shall be deemed to be the value of the land for the purposes of this paragraph :

Provided further that when the value of land so determined exceeds twenty times the revenue payable on the land, the value shall be limited, for the purposes of this paragraph, to twenty times the said revenue.]

B. where the subject-matter is a house or garden—the market-value of the house or garden ;

1. Substituted by Act VIII of 1922.
2. Added by Act XVIII of 1952.

to enforce a right of pre-emption;

vi. In suits to enforce a right of pre-emption—according to the value (computed in accordance with paragraph (v) of this section) of the land, house or garden in respect of which the right is claimed;

for interest of assignee of land-revenue;

vii. In suits for the interest of an assignee of land-revenue—fifteen times his nett profits as such for the year next before the date of presenting the plaint;

to set aside an attachment;

viii. In suits to set aside an attachment of land or of an interest in land or revenue—according to the amount for which the land or interest was attached;

Provided that, where such amount exceeds the value of the land or interest, the amount of fee shall be computed as if the suit were for the possession of such land or interest;

to redeem;

ix. In suits against a mortgagee for the recovery of the property mortgaged,

to foreclose;

and in suits by a mortgagee to foreclose the mortgage,

or, where the mortgage is made by conditional sale, to have the sale declared absolute—

according to the principal money expressed to be secured by the instrument of mortgage;

for specific performance.

x. In suits for specific performance—

(*a*) of a contract of sale—according to the amount of the consideration;

(*b*) of a contract of mortgage—according to the amount agreed to be secured;

(*c*) of a contract of lease according to the aggregate amount of the fine or premium (if any) and of the rent agreed to be paid during the first year of the term;

(*d*) on an award—according to the amount or value of the property in dispute;

Between landlord and tenant.

xi. In the following suits between landlord and tenant—

(*a*) for the delivery by a tenant of the counterpart of a lease,

(*b*) to enhance the rent of a tenant having a right of occupancy,

(*c*) for the delivery by a landlord of a lease,

[1][(*cc*) for the recovery of immoveable property from a tenant, including a tenant holding over after the determination of a tenancy,]

(*d*) to contest a notice of ejectment,

(*e*) to recover the occupancy of [2][immoveable property] from which a tenant has been illegally ejected by the landlord, and

(*f*) for abatement of rent—

according to the amount of the rent of the [2][immoveable property] to which the suit refers, payable for the year next before the date of presenting the plaint.

Fee on memorandum of appeal against order relating to compensation.

5. The amount of fee payable under this Act on a memorandum of appeal against an order relating to compensation under any Act for the time being in force for the acquisition of land for public purposes shall be computed according to the difference between the amount awarded and the amount claimed by the appellant.

Power to ascertain nett profits or market-value.

6. If the Court sees reason to think that the annual nett profits or the market-value of any such land, house or garden, as is mentioned in section 4, paragraphs (v) and (vi) have or has been wrongly estimated, the Court may, for the purpose of computing the fee payable in any suit therein mentioned, issue commission to any proper person directing him to make such local or other investigation as may be necessary, and to report thereon to the Court.

Procedure where nett profits or market-value wrongly estimated.

7. i. If in the result of any such investigation the Court finds that the nett profits or market-value have or has been wrongly estimated, the Court, if the estimation has been excessive, may in its discretion refund the excess paid as such fee ; but, if the estimation has been insufficient, the Court shall require the plaintiff to pay so much additional fee as would have been payable had the said market-value or nett profits been rightly estimated.

ii. In such case, the suit shall be stayed until the additional fee is paid. If the additional fee is not paid

1. This clause was inserted by Act I of 1908.
2. These words were substituted for the word "Land" by Act I of 1908.

within such time as the Court shall fix, the suit shall be dismissed.

Procedure in suits for mesne profits on account when amount decreed exceeds amount claimed.

8. In suits for mesne profits or for immoveable property and mesne profits, or for an account, if the profits or amount decreed are or is in excess of the profits claimed or the amount at which the plaintiff valued the relief sought, the decree shall not be executed until the difference between the fee actually paid and the fee which would have been payable had the suit comprised the whole of the profits or amount so decreed shall have been paid to the proper officer.

[1][Where a decree directs an inquiry as to mesne profits which have accrued on the property during a period prior to the institution of the suit, if the profits ascertained on such inquiry exceed the profits claimed, no final decree shall be passed till the difference between the fee actually paid and the fee which should have been payable had the suit comprised the whole of the profits so ascertained is paid. If the additional fee is not paid within such time as the Court shall fix, the claim for the excess shall be dismissed, unless the Court for sufficient cause extends the time for payment.

Where a decree directs an inquiry as to mesne profits from the institution of the suit, and a final decree is passed in accordance with the result of such inquiry, the decree shall not be executed until such fee is paid as would have been payable on the amount claimed in execution if a separate suit had been instituted therefor.]

Decision of questions as to valuation.

9. i. Every question relating to valuation for the purpose of determining the amount of any fee chargeable under this chapter on a plaint or memorandum of appeal shall be decided by the Court in which such plaint or memorandum, as the case may be, is filed, and such decision shall be final as between the parties to the suit.

ii. But whenever any such suit comes before a Court of appeal, reference or revision, if such Court considers that the said question has been wrongly decided, to the detriment of the revenue, it shall require the party by whom such fee has been paid to pay so much additional fee as would have been payable had the question been

1. Substituted for the original by Act VIII of 1922.

rightly decided, and the provisions of section 7, paragraph ii, shall apply.

Refund of fee paid on memorandum of appeal.

10. If an appeal or plaint, which has been rejected by the lower Court on any of the grounds mentioned in the Code of Civil Procedure, is ordered to be received, or if a suit is remanded in appeal, on any of the grounds mentioned in section 562 of the same Code, for a second decision by the lower Court, the Appellate Court shall grant to the appellant a certificate, authorising him to receive back from the Deputy Commissioner the full amount of fee paid on the memorandum of appeal :

Provided that if, in the case of a remand in appeal, the order of remand shall not cover the whole of the subject-matter of the suit, the certificate so granted shall not authorise the appellant to receive back more than so much fee as would have been originally payable on the part or parts of such subject-matter in respect whereof the suit has been remanded.

Refund of fee on application for review of judgment.

11. Where an application for a review of judgment is presented on or after the nineteenth day from the date of the decree, the Court, unless the delay was caused by the applicant's laches may, in its discretion, grant him a certificate authorising him to receive back from the Deputy Commissioner so much of the fee paid on the application as exceeds the fee which would have been payable had it been presented before such day.

Refund where Court reverses or modifies its former decision on ground of mistake.

12. Where an application for a review of judgment is admitted, and where, on the re-hearing, the Court reverses or modifies its former decision on the ground of mistake in law or fact, the applicant shall be entitled to a certificate from the Court authorizing him to receive back from the Deputy Commissioner so much of the fee paid on the application as exceeds the fee payable on any other application to such Court under the second schedule to this Act No. 1, clause (*b*) or clause (*d*).

But nothing in the former part of this section shall entitle the applicant to such certificate where the reversal or modification is due, wholly or in part, to fresh evidence which might have been produced at the original hearing.

13. [1][* * *]

1. Repealed by Act III of 1931.

(Chapter II—Fees in Courts and in Public Offices)

Multifarious suits.

14. Where a suit embraces two or more distinct subjects, the plaint or memorandum of appeal shall be chargeable with the aggregate amount of the fees to which the plaints or memoranda of appeal in suits embracing separately each of such subjects would be liable under this Act.

Nothing in the former part of this section shall be deemed to affect the power conferred by the Code of Civil Procedure, section 45, paragraph 2.

Written examinations of complainants.

15. When the first or only examination of a person who complains of the offence of wrongful confinement, or of wrongful restraint, or of any offence other than an offence for which police officers may arrest without a warrant, and who has not already presented a petition on which a fee has been levied under this Act is reduced to writing under the provisions of the Code of Criminal Procedure, the complainant shall pay a fee of [1][twelve annas,] unless the Court thinks fit to remit such payment.

Exemption of certain documents.

16. Nothing contained in this Act shall render the following documents chargeable with any fee :—

i. Power-of-attorney to institute or defend a suit when executed by an officer or soldier in His Highness the Maharaja's Military Forces not in civil employment.

[2][ii. Written statement not being one mentioned in article 2-A of Schedule I, nor one containing a counter-claim, set off or a prayer other than a prayer for instalments or relating to costs of the suit.]

iii. Probate of a will and letters of administration, where the amount or value of the property in respect of which the probate of letters shall be granted does not exceed one thousand rupees.

iv. Application or petition to a Deputy Commissioner or other officer making a settlement of land-revenue, or to the Government, relating to matters connected with the assessment of land or the ascertainment of rights thereto or interest therein, if presented previous to the final confirmation of such settlement.

1. Substituted for the words "eight annas" by Act VIII of 1922.
2. Substituted by Act IV of 1951.

(*Chapter II—Fees in Courts and in Public Offices*)

v. Application relating to a supply for irrigation of water belonging to Government.

vi. Application for leave to extend cultivation, or to relinquish land, when presented to an officer of land-revenue by a person holding, under direct engagement with Government, land of which the revenue is settled, but not permanently.

vii. Application for service of notice of relinquishment of land or enhancement of rent.

viii. Written authority to an agent to distrain.

ix. First application (other than a petition containing a criminal charge or information) for the summons of a witness or other person to attend either to give evidence or to produce a document, or in respect of the production or filing of an exhibit not being an affidavit, made for the immediate purpose of being produced in Court.

x. Bail-bonds in criminal cases, recognizance to prosecute or give evidence, and recognizances for personal appearance or otherwise.

xi. Petition, application or information respecting any offence, when presented, made or laid to or before a Police-officer, or to or before the Heads of the Village Police.

xii. Petition by a prisoner, or other person in duress or under restraint of any Court or its officers.

xiii. Complaint of a public servant (as defined in the Indian Penal Code), a municipal officer, or an officer or servant of Railway Company.

xiv. Application for permission to cut timber in Government forests, or otherwise relating to such forests.

xv. Application for the payment of money due by Government to the applicant.

xvi. Petition of appeal against any Municipal tax.

xvii. Applications for compensation under any law for the time being in force relating to the acquisition of property for public purposes.

xviii. Petitions under the Indian Christian Marriage Act, 1872, Sections 45 and 48.

(Chapter III—Probates, Letters of Administration and Certificates of Administration)

CHAPTER III.

PROBATES, LETTERS OF ADMINISTRATION AND CERTIFICATES OF ADMINISTRATION.

Relief where too high a court-fee has been paid.

17. Where any person on applying for the probate of a will or letters of administration has estimated, the property of the deceased to be of greater value than the same has afterwards proved to be, and has consequently paid too high a court-fee thereon, if, within six months after the true value of the property has been ascertained, such person produces the probate or letters to the Chief Controlling Revenue Authority,

and delivers to such Authority a particular inventory and valuation of the property of the deceased, verified by affidavit or affirmation,

and if such Authority is satisfied that a greater fee was paid on the probate or letters than the law required, the said Authority may—

(*a*) cancel the stamp on the probate or letters if such stamp has not been already cancelled;

(*b*) substitute another stamp for denoting the court-fee which should have been paid thereon; and

(*c*) make an allowance for the difference between them as in the case of spoiled stamps, or repay the same in money, at his discretion.

Relief where debts due from a deceased person have been paid out of his estate.

18. Whenever it is proved to the satisfaction of such Authority that an executor or administrator has paid debts due from the deceased to such an amount as, being deducted out of the amount or value of the estate, reduces the same to a sum which, if it had been the whole gross amount or value of the estate, would have occasioned a less court-fee to be paid on the probate or letters of administration granted in respect of such estate than has been actually paid thereon under this Act;

such Authority may return the difference, provided the same be claimed within three years after the date of such probate or letters.

But when, by reason of any legal proceeding, the debts due from the deceased have not been ascertained and paid, or his effects have not been recovered and made available, and in consequence thereof the executor or

administrator is prevented from claiming the return of such difference within the said term of three years, the said Authority may allow such further time for making the claim as may appear to be reasonable under the circumstances.

Relief in case of several grants.

19. Whenever a grant of probate or letters of administration has been or is made in respect of the whole of the property belonging to an estate, and the full fee chargeable under this Act has been or is paid thereon, no fee shall be chargeable under the same Act when a like grant is made in respect of the whole or any part of the same property belonging to the same estate.

Whenever such a grant has been or is made in respect of any property forming part of an estate, the amount of fees then actually paid under this Act shall be deducted when a like grant is made in respect of property belonging to the same estate, identical with or including the property to which the former grant relates.

Probates declared valid as to trust-property though not covered by court-fee.

20. The probate of the will or the letters of administration of the effects of any person deceased heretofore or hereafter granted shall be deemed valid and available by his executors or administrators for recovering, transferring or assigning any moveable or immoveable property whereof or whereto the deceased was possessed or entitled, either wholly or partially as a trustee notwithstanding the amount or value of such property is not included in the amount or value of the estate in respect of which a court-fee was paid on such probate or letters of administration.

Provision for case where too low a court-fee has been paid on probates, etc.

21. Where any person on applying for probate or letters of administration has estimated, the estate of the deceased to be of less value than the same has afterwards proved to be, and has in consequence paid too low a court-fee thereon, the Chief Controlling Revenue Authority may, on the value of the estate of the deceased being verified by affidavit or affirmation, cause the probate or letters of administration to be duly stamped on payment of the full court-fee which ought to have been originally paid thereon in respect of such value and of the further penalty, if the probate or letters is or are produced within one year from

the date of the grant, of five times, or, if it or they is or are produced after one year from such date, of twenty times, such proper court-fee, without any deduction of the court-fee originally paid on such probate or letters:

Provided that, if the application be made within six months after the ascertainment of the true value of the estates and the discovery that too low a court-fee was at first paid on the probate or letters, and if the said Authority is satisfied that such fee was paid in consequence of a mistake or of its not being known at the time that some particular part of the estate belonged to the deceased, and without intention of fraud or to delay the payment of the proper court-fee, the said Authority may remit the said penalty, and cause the probate or letters to be duly stamped on payment only of the sum wanting to make up the fee which should have been at first paid thereon.

Administrator to give proper security before letters stamped under section 21.

22. In case of letters of administration on which too low a court-fee has been paid at first, the said Authority shall not cause the same to be duly stamped in manner aforesaid until the administrator has given such security to the Court by which the letters of administration have been granted as ought by law to have been given on the granting thereof in case the full value of the estate of the deceased had been then ascertained.

Executors, etc., not paying full court-fee on probates, etc., within six months after discovery of underpayment.

23. Where too low a court-fee has been paid on any probate or letters of administration in consequence of any mistake, or of its not being known at the time that some particular part of the estate belonged to the deceased, if any executor or administrator acting under such probate or letters does not, within six months after the discovery of the mistake or of any effects not known at the time to have belonged to the deceased, apply to the said Authority and pay what is wanting to make up the court-fee which ought to have been paid at first on such probate or letters, he shall forfeit the sum of one thousand rupees and also a further sum at the rate of ten rupees per cent on the amount of the sum wanting to make up the proper court-fee.

(Chapter III—Probates, Letters of Administration and Certificates of Administration)

Notice of applications for probate or letters of administration to be given to Revenue Authorities and procedure thereon.

24. (1) Where an application for probate or letters of administration is made to any Court other than the [1][High Court,] the Court shall cause notice of the application to be given to the Deputy Commissioner.

(2) Where such an application as aforesaid is made to the [1][High Court,] the [1][High Court] shall cause notice of the application to be given to the Chief Controlling Revenue Authority.

(3) The Deputy Commissioner within the local limits of whose revenue-jurisdiction the property of the deceased or any part thereof is, may at any time inspect, or cause to be inspected, and take or cause to be taken copies of the record of any case in which application for probate or letters of administration has been made; and if on such inspection or otherwise, he is of opinion that the petitioner has under-estimated the value of the property of the deceased, the Deputy Commissioner may, if he thinks fit, require the attendance of the petitioner (either in person or by agent) and take evidence and inquire into the matter in such manner as he may think fit, and, if he is still of opinion that the value of the property has been under-estimated, may require the petitioner to amend the valuation.

(4) If the petitioner does not amend the valuation to the satisfaction of the Deputy Commissioner, the Deputy Commissioner may move the Court before which the application for probate or letters of administration was made, to hold an inquiry into the true value of the property:

Provided that no such motion shall be made after the expiration of six months from the date of the exhibition of the inventory required by section 277 of the Indian Succession Act, 1865.

(5) The Court, when so moved as aforesaid, shall hold, or cause to be held, an inquiry accordingly, and shall record a finding as to the true value, as near as may be, at which the property of the deceased should have been estimated. The Deputy Commissioner shall be deemed to be a party to the inquiry.

1. The words "High Court" were substituted for the words "Chief Court" by Act XII of 1930.

(Chapter III - Probates, Letters of Administration and Certificates of Administration)

(6) For the purpose of any such inquiry, the court or person authorised by the Court to hold the inquiry may examine the petitioner for probate or letters of administration on oath (whether in person or by commission), and may take such further evidence as may be produced to prove the true value of the property. The person authorized as aforesaid to hold the inquiry shall return to the Court the evidence taken by him and report the result of the inquiry, and such report and the evidence so taken shall be evidence in the proceeding, and the Court may record a finding in accordance with the report, unless it is satisfied that it is erroneous.

(7) The finding of the Court recorded under sub-section (5) shall be final, but shall not bar the entertainment and disposal by the Chief Controlling Revenue Authority of any application under section 21.

(8) The Government may make rules for the guidance of Deputy Commissioners in the exercise of the powers conferred by sub-section (3).

Payment of court-fees in respect of probates and letters of administration.

25. (1) No order entitling the petitioner to the grant of probate or letters of administration shall be made upon an application for such grant until the petitioner has filed in the Court a valuation of the property in the form set forth in the third schedule, and the Court is satisfied that the fee mentioned in No. 10 of the first schedule has been paid on such valuation.

(2) The grant of probate or letters of administration shall not be delayed by reason of any motion made by the Deputy Commissioner under section 24, sub-section (4).

Recovery of penalties, etc.

26. (1) Any excess fee found to be payable on an inquiry held under section 24, sub section (6), and any penalty or forfeiture under section 23 may, on the certificate of the Chief Controlling Revenue Authority, be recovered from the executor or administrator as if it were an arrear of land revenue by any Deputy Commissioner in any part of [1][the State of Mysore except Bellary District] ;

1. See the Mysore Adaptation of Laws Order, 1953.

(*Chapter IV—Process Fees*)

(2) The Chief Controlling Revenue Authority may remit the whole or any part of any such penalty or forfeiture as aforesaid, or any part of any penalty under section 21 or of any Court fee under section 21 in excess of the full court fee which ought to have been paid.

27. Nothing in section 3 or section 36 shall apply to probate or letters of administration. Sections 3 and 36 not to apply to probates or letters of administration.

28. [1][* * *]

CHAPTER IV.

Process Fees.

29. The [2][High Court] shall, as soon as may be make rules as to the following matters :— Rules as to cost of processes.

i. The fees chargeable for serving and executing processes issued by such Court in its appellate jurisdiction, and by the other Civil and Revenue Courts established within the local limits of such jurisdiction ;

ii. the fees chargeable for serving and executing processes issued by the Criminal Courts established, within such limits in the case of offences other than offences for which police officers may arrest without a warrant; and

iii. the remuneration of the peons and all other persons employed by leave of a Court in the service or execution of processes.

The [2][High Court] may from time to time alter and add to the rules so made.

All such rules, alterations and additions shall, after being sanctioned by the Government, be published in the Official Gazette, and shall thereupon have the force of law. Sanction and publication of rules.

1. Repealed by Act V of 1911.
2. The words "High Court" were substituted for the words "Chief Court" by Act XII of 1930.

Until such rules shall be so made and published, the fees now leviable for serving and executing processes shall continue to be levied, and shall be deemed to be fees leviable under this Act.

Tables of process-fees

30. A table in the English and Kanarese languages, showing the fees chargeable for such service and execution shall be exposed to view in a conspicuous part of each Court.

Number of peons in District and Subordinate Courts.

31. Subject to rules to be made by the [1][High Court] and approved by the Government,

every District Judge and every Magistrate of a District shall fix, and may from time to time alter, the number of peons necessary to be employed for the service and execution of processes issued out of his Court and each of the Courts subordinate thereto,

Number of peons in Small Cause Courts.

and for the purposes of this section, every Court of Small Causes shall be deemed to be subordinate to the Court of the District Judge.

Number of peons in Revenue Courts.

32. Subject to rules to be framed by the Chief Controlling Revenue Authority and approved by the Government every officer performing the functions of a Deputy Commissioner of a District shall fix, and may from time to time alter, the number of peons necessary to be employed for the service and execution of processes issued out of his Court or the Courts subordinate to him.

CHAPTER V.

Of the Mode of Levying Fees.

Collection of fees by Stamps.

33. All fees chargeable under this Act shall be collected by stamps.

Stamps to be impressed or adhesive.

34. The stamps used to denote any fee chargeable under this Act shall be impressed or adhesive or partly impressed and partly adhesive, as the Government may, by notification in the Official Gazette, from time to time direct.

1. The words "High Court" were substituted for the words "Chief Court" by Act XII of 1930.

(*Chapter V—Of the Mode of Levying Fees*)

Rules for supply, number, renewal or refund and keeping accounts of stamps.

35. The Government may, from time to time, make rules for regulating—

(*a*) the supply of stamps to be used under this Act,

(*b*) the number of stamps to be used for denoting any fee chargeable under this Act,

(*c*) the renewal of [1][or refund in value for] damaged or spoiled stamps, and

(*d*) the keeping accounts of all stamps used under this Act,

All such rules shall be published in the Official Gazette and shall thereupon have the force of law.

Stamping documents inadvertently received.

36. No document which ought to bear a stamp under this Act shall be of any validity, unless and until it is properly stamped.

But, if any such document is through mistake or inadvertence received, filed or used in any Court or Office without being properly stamped, the presiding Judge or the head of the office, as the case may be, or, in the case of the [2][High Court,] any Judge of such Court, may, if he thinks fit, order that such document be stamped as he may direct; and, on such document being stamped accordingly, the same and every proceeding relative thereto shall be as valid as if it had been properly stamped in the first instance.

Amended document.

37. Where any such document is amended in order merely to correct a mistake and to make it conform to the original intention of the parties, it shall not be necessary to impose a fresh stamp.

Cancellation of stamp.

38. No document requiring a stamp under this Act shall be filed or acted upon in any proceeding in any Court or office until the stamp has been cancelled.

Such officer as the Court or the head of the office may from time to time appoint shall, on receiving any such document, forthwith effect such cancellation by punching out the figure-head so as to leave the amount designated

1. Inserted by Act IV of 1914.
2. The words "High Court" were substituted for the words "Chief Court" by Act XII of 1930.

on the stamp untouched, and the part removed by punching shall be burnt or otherwise destroyed.

39. [1][* * *]

CHAPTER VI.

MISCELLANEOUS.

Admission in criminal cases of documents for which proper fee has not been paid.

40. Whenever the filing or exhibition in a Criminal Court of a document in respect of which the proper fee has not been paid is, in the opinion of the presiding Judge, necessary to prevent a failure of justice, nothing contained in section 3 shall be deemed to prohibit such filing or exhibition.

Sale of stamps.

41. (1) The Government may from time to time make rules for regulating the sale of stamps to be used under this Act, the persons by whom alone such sale is to be conducted, and the duties and the remuneration of such persons.

(2) All such rules shall be published in the Official Gazette and shall thereupon have the force of law.

(3) Any person appointed to sell stamps who disobeys any rule made under this section, and any person not so appointed who sells or offers for sale any stamp, shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Power to reduce or remit fees.

42. The Government may from time to time, by notification in the Official Gazette, reduce or remit, in the whole or in any part of [2][the State of Mysore except Bellary District,] all or any of the fees mentioned in the first and second schedules to this Act annexed, and may in like manner cancel or vary such order.

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1. Repealed by Act VI of 1927.
2. See the Mysore Adaptation of Laws Order, 1963.

(*Schedule I*)

[1]SCHEDULE I.

Ad valorem **Fees.**

Number		Proper fee
[2][1. Plaint or written statement, pleading a set off or counter-claim or memorandum of appeal (not otherwise provided for in this Act) presented to any Civil or Revenue Court.	When the amount or value of the subject matter in dispute does not exceed five rupees.	Eight annas.
	When such amount or value exceeds five rupees, for every five rupees, or part thereof, in excess of five rupees, up to one hundred rupees.	Nine annas.
	When such amount or value exceeds one hundred rupees, for every ten rupees or part thereof, in excess of one hundred rupees, up to one thousand rupees.	One rupee and two annas.
	When such amount or value exceeds one thousand rupees, for every one hundred rupees, or part thereof in excess of one thousand rupees, up to five thousand rupees.	Seven rupees and eight annas.
	When such amount or value exceeds five thousand rupees, for every two hundred and fifty rupees, or part thereof in excess of five thousand rupees, up to ten thousand rupees.	Fifteen rupees.
	When such amount or value exceeds ten thousand rupees, for every five hundred rupees, or part thereof, in excess of ten thousand rupees, up to twenty thousand rupees.	Twenty two rupees and eight annas.

1. Substituted by Act VIII of 1922.
2. Substituted by Act XVIII of 1952.

(*Schedule I*)

SCHEDULE I—*contd.*

Number	...	Proper fee
	When such amount or value exceeds twenty thousand rupees, for every one thousand rupees, or part thereof, in excess of twenty thousand rupees up to thirty thousand rupees.	Thirty rupees.
	When such amount or value exceeds thirty thousand rupees, for every two thousand rupees or part thereof, in excess of thirty thousand rupees up to fifty thousand rupees.	Thirty rupees.
	When such amount or value exceeds fifty thousand rupees, for every five thousand rupees, or part thereof, in excess of fifty thousand rupees.	Thirty rupees.
1 A. Plaint or written statement pleading a setoff or counter-claim presented to any court in any suit of the nature cognizable by Courts of Small Causes when the amount or value of the subject matter does not exceed rupees five hundred.	When the amount or value of the subject matter in dispute does not exceed five rupees.	Six annas.
	When such amount or value exceeds five rupees, for every five rupees or part thereof in excess of five rupees up to one hundred rupees.	Six annas.

(*Schedule I*)

SCHEDULE I—*contd.*

Number		Proper fee
	When such ameunt or value exceeds one hundred rupees, for every ten rupees or part thereof in excess of one hundred rupees, up to five hundred rupees.	Twelve annas.
2. Plaint in a suit for possession under the Specific Relief Act, 1877 [section 9].	...	An amount of one-half the scale of fee prescribed in Article 1 above.
[1][2-A. Application or written statement by a defendant in a suit for partition praying for partition of his share in the property sought to be partitioned.	...	The same fee which would have been payable on a plaint, if such defendant instituted a suit for partition.]
3. Application for review of judgment, if presented on or after the ninetieth day from the date of the decree.	...	The fee leviable on the plaint or memorandum of appeal.
4. Application for review of judgment, if presented before, the ninetieth day from the date of the decree.	...	One-half of the fee leviable on the plaint or memorandum of appeal.

1. Inserted by Act IV of 1951.

(*Schedule I*)

SCHEDULE I—*contd.*

Number		Proper fee
5. Copy or translation of a judgment or order not being or having the force of a decree.	When such judgment or order is passed by any Civil Court other than the [1][High Court,] or by the presiding officer of any Revenue Court or Office, or by any other Judicial or Executive Authority—	
	(*a*) If the amount or value of the subject-matter is fifty or less than fifty rupees.	Five annas.
	(*b*) If such amount or value exceeds fifty rupees.	Ten annas.
	When such judgment or order is passed by the [1][High Court.]	One rupee and four annas.
6. Copy or translation of a judgment or order of a Criminal Court.	...	Eight annas.
7. Copy of a decree or order having the force of a decree.	When such decree or order is made by any Civil Court other than the [1][High Court,] or by any Revenue Court—	
	(*a*) If the amount or value of the subject-matter of the suit wherein such decree or order is made is fifty or less than fifty rupees.	Eight annas.
	(b) If such amount or value exceeds fifty rupees.	One rupee.
8. Copy of any document liable to stamp-duty under the Mysore Stamp Act, 1900, when left by any party to a suit or proceeding in place of the original withdrawn.	When such decree or order is made by the [1][High Court.]	Four rupees.
	(*a*) When the stamp-duty chargeable on the original does not exceed eight annas.	The amount of the duty chargeable on the original.
	(b) In any other case.	Eight annas.

1. The words "High Court" were substituted for the words "Chief Court" by Act XII of 1930.

(*Schedule I*)

SCHEDULE I—*contd.*

Number		Proper fee
9. Copy of any revenue or judicial proceeding or order not otherwise provided for by this Act, or copy of any accounts, statement, report or the like taken out of any Civil or Criminal or Revenue Court or Office.	For every three hundred and sixty words or fraction of three hundred and sixty words.	Eight annas.
10. (*Present Article 9 repealed by Act V of 1911.*)	.....	
[1][11. Probate of a will or letters of administration with or without will annexed.	When the amount or value of the property in respect of which the grant of probate or letters is made exceeds one thousand rupees but does not exceed five thousand rupees.	Two percentum on such amount or value.
	When such amount or value exceeds five thousand rupees, on the portion of such amount or value in excess of five thousand rupees, up to fifty thousand rupees.	Three percentum on such amount or value.
	When such amount or value exceeds fifty thousand rupees, on the portion of such amount or value in excess of fifty thousand rupees, up to one lakh of rupees.	Four percentum on such amount or value.

1. Substituted by Act XVIII of 1952.

(*Schedule I*)

SCHEDULE I—*contd.*

Number		Proper fee
	When such amount or value exceeds one lakh of rupees, on the portion of such amount or value in excess of one lakh of rupees.— Provided that when, after the grant of a certificate under Part X of the Indian Succession Act, 1925, in respect of any property included in an estate, a grant of probate or letters of administration is made in respect of the same estate, the fee payable in respect of the latter grant shall be reduced by the amount of fee paid in respect of the former grant.	Five percentum on such amount or value.
12. Certificate under Part X of the Indian Succession Act, 1925 (Central Act XXXIX of 1925)	When the amount or value of the debts or securities specified in the certificate under section 374 of the Act does not exceed five thousand rupees.	Two percentum on such amount or value, and three and a half percentum on the amount or value of the debts or securities to which the certificate is extended under section 376 of the Act.
	When such amount or value exceeds five thousand rupees, on the portion of such amount or value in excess of five thousand rupees, up to fifty thousand rupees.	Three percentum on such amount or value, and four and a half percentum on the amount or value of the debts or securities to which the certificate is extended under section 376 of the Act.

(*Schedule I*)

SCHEDULE I—*contd.*

Number		Proper fee
	When such amount or value exceeds fifty thousand rupees, on the portion of such amount or value in excess of fifty thousand rupees, up to one lakh of rupees.	Four percentum on such amount or value and five and a half percentum on the amount or value of the debts or securities to which the certificate is extended under section 376 of the Act.
	When such amount or value exceeds one lakh of rupees, on the portion of such amount or value in excess of one lakh of rupees.	Five percentum on such amount or value and six and a half percentum on the amount or value of debts or securities to which the certificate is extended under section 376 of the Act.

Note.—(1) The amount of a debt is its amount, including interest on the day of which the inclusion of the debt in the certificate is applied for, so far as such amount can be ascertained.

(2) Whether or not any power with respect to a security specified in a cerificate has been conferred under the Act; and where such a power has been so conferred whether the power is for the receiving of interest or dividends on, or for the negotiation or transfer of the security or for both purposes, the value of the security is its market value on the day on which the inclusion of the security in the certificate is applied for, so far as such value can be ascertained.]

(Schedule I)

SCHEDULE I—*contd.*

[1] **[Table of Rates of *Ad valorem* Fees Leviable.**

(*a*) On plaints, etc., mentioned in Article 1 of this Schedule.—

When the amount or value of the subject-matter exceeds	But does not exceed	Proper fee	When the amount or value of the subject-matter exceeds	But does not exceed	Proper fee
Rs.	Rs.	Rs. a.	Rs.	Rs.	Rs. a.
...	5	0 8	270	280	31 7
5	10	1 1	280	290	32 9
10	15	1 10	290	300	33 11
15	20	2 3	300	310	34 13
20	25	2 12	310	320	35 15
25	30	3 5	320	330	37 1
30	35	3 14	330	340	38 3
35	40	4 7	340	350	39 5
40	45	5 0	350	360	40 7
45	50	5 9	360	370	41 9
50	55	6 2	370	380	42 11
55	60	6 11	380	390	43 13
60	65	7 4	390	400	44 15
65	70	7 13	400	410	46 1
70	75	8 6	410	420	47 3
75	80	8 15	420	430	48 5
80	85	9 8	430	440	49 7
85	90	10 1	440	450	50 9
90	95	10 10	450	460	51 11
95	100	11 3	460	470	52 13
100	110	12 5	470	480	53 15
110	120	13 7	480	490	55 1
120	130	14 9	490	500	56 3
130	140	15 11	500	510	57 5
140	150	16 13	510	520	58 7
150	160	17 15	520	530	59 9
160	170	19 1	530	540	60 11
170	180	20 3	540	550	61 13
180	190	21 5	550	560	62 15
190	200	22 7	560	570	64 1
200	210	23 9	570	580	65 3
210	220	24 11	580	590	66 5
220	230	25 13	590	600	67 7
230	240	26 15	600	610	68 9
240	250	28 1	610	620	69 11
250	260	29 3	620	630	70 13
260	270	30 5	630	640	71 15

1. Substituted by Act XVIII of 1952.

(*Schedule I*)

SCHEDULE I—*contd.*

When the amount or value of the subject-matter exceeds	But does not exceed	Proper fee	When the amount or value of the subject-matter exceeds	But does not exceed	Proper fee
Rs.	Rs.	Rs. a.	Rs.	Rs.	Rs. a.
640	650	73 1	1,400	1,500	149 15
650	660	74 3	1,500	1,600	157 7
660	670	75 5	1,600	1,700	164 15
670	680	76 7	1,700	1,800	172 7
680	690	77 9	1,800	1,900	179 15
690	700	78 11	1,900	2,000	187 7
700	710	79 13	2,000	2,100	194 15
710	720	80 15	2,100	2,200	202 7
720	730	82 1	2,200	2,300	209 15
730	740	83 3	2,300	2,400	217 7
740	750	84 5	2,400	2,500	224 15
750	760	85 7	2,500	2,600	232 7
760	770	86 9	2,600	2,700	239 15
770	780	87 11	2,700	2,800	247 7
780	790	88 13	2,800	2,900	254 15
790	800	89 15	2,900	3,000	262 7
800	810	91 1	3,000	3,100	269 15
810	820	92 3	3,100	3,200	277 7
820	830	93 5	3,200	3,300	284 15
830	840	94 7	3,300	3,400	292 7
840	850	95 9	3,400	3,500	299 15
850	860	96 11	3,500	3,600	307 7
860	870	97 13	3,600	3,700	314 15
870	880	98 15	3,700	3,800	322 7
880	890	100 1	3,800	3,900	329 15
890	900	101 3	3,900	4,000	337 7
900	910	102 5	4,000	4,100	344 15
910	920	103 7	4,100	4,200	352 7
920	930	104 9	4,200	4,300	359 15
930	940	105 11	4,300	4,400	367 7
940	950	106 13	4,400	4,500	374 15
950	960	107 15	4,500	4,600	382 7
960	970	109 1	4,600	4,700	389 15
970	980	110 3	4,700	4,800	397 7
980	990	111 5	4,800	4,900	404 15
990	1,000	112 7	4,900	5,000	412 7
1,000	1,100	119 15	5,000	5 250	427 7
1,100	1,200	127 7	5,250	5,500	442 7
1,200	1,300	134 15	5,500	5,750	457 7
1,300	1,400	142 7	5,750	6,000	472 7

(*Schedule I*)

SCHEDULE I—*contd.*

When the amount or value of the subject-matter exceeds	But does not exceed	Proper fee	When the amount or value of the subject-matter exceeds	But does not exceed	Proper fee
Rs.	Rs.	Rs. a.	Rs.	Rs.	Rs. a.
6,000	6,250	487 7	16,000	16,500	1,004 15
6,250	6,500	502 7	16,500	17,000	1,027 7
6,500	6,750	517 7	17,000	17,500	1,049 15
6,750	7,000	532 7	17,500	18,000	1,072 7
7,000	7,250	547 7	18,000	18,500	1,094 15
7,250	7,500	562 7	18,500	19,000	1,117 7
7,500	7,750	577 7	19,000	19,500	1,139 15
7,750	8,000	592 7	19,500	20,000	1,162 7
8,000	8,250	607 7	20,000	21,000	1,192 7
8,250	8,500	622 7	21,000	22,000	1,222 7
8,500	8,750	637 7	22,000	23,000	1,252 7
8,750	9,000	652 7	23,000	24,000	1,282 7
9,000	9,250	667 7	24,000	25,000	1,312 7
9,250	9,500	682 7	25,000	26,000	1,342 7
9,500	9,750	697 7	26,000	27,000	1,372 7
9,750	10,000	712 7	27,000	28,000	1,402 7
10,000	10,500	734 15	28,000	29,000	1,432 7
10,500	11,000	757 7	29,000	30,000	1,462 7
11,000	11,500	779 15	30,000	32,000	1,492 7
11,500	12,000	802 7	32,000	34,000	1,522 7
12,000	12,500	824 15	34,000	36,000	1,552 7
12,500	13,000	847 7	36,000	38,000	1,582 7
13,000	13,500	869 15	38,000	40,000	1,612 7
13,500	14,000	892 7	40,000	42,000	1,642 7
14,000	14,500	914 15	42,000	44,000	1,672 7
14,500	15,000	937 7	44,000	46,000	1,702 7
15,000	15,500	959 15	46,000	48,000	1,732 7
15,500	16,000	982 7	48,000	50,000	1,762 7

When the amount or value of the subject-matter exceeds Rs. 50,000 for every five thousand rupees or part thereof in excess of fifty thousand rupees—thirty rupees.

(*Schedule I*)

SCHEDULE I—*concld.*

(*b*) On plaints, etc., mentioned in Article 1-A of this Schedule.—

When the amount or value of the subject-matter exceeds	But does not exceed	Proper fee	When the amount or value of the subject-matter exceeds	But does not exceed	Proper fee
Rs.	Rs.	Rs. a.	Rs.	Rs.	Rs. a.
...	5	0 6	200	210	15 12
5	10	0 12	210	220	16 0
10	15	1 2	220	230	17 4
15	20	1 8	230	240	18 0
20	25	1 14	240	250	18 12
25	30	2 4	250	260	19 8
30	35	2 10	260	270	20 4
35	40	3 0	270	280	21 0
40	45	3 6	280	290	21 12
45	50	3 12	290	300	22 8
50	55	4 2	300	310	23 4
55	60	4 8	310	320	24 0
60	65	4 14	320	330	24 12
65	70	5 4	330	340	25 8
70	75	5 10	340	350	26 4
75	80	6 0	350	360	27 0
80	85	6 6	360	370	27 12
85	90	6 12	370	380	28 8
90	95	7 2	380	390	29 4
95	100	7 8	390	400	30 0
100	110	8 4	400	410	30 12
110	120	9 0	410	420	31 8
120	130	9 12	420	430	32 4
130	140	10 8	430	440	33 0
140	150	11 4	440	450	33 12
150	160	12 0	450	460	34 8
160	170	12 12	460	470	35 4
170	180	13 8	470	480	36 0
180	190	14 4	480	490	36 12
190	200	15 0	490	500	37 8

(*Schedule II*)

[1]SCHEDULE II—FIXED FEES.

Number		Proper fee
[2][1. Application or petition.	(*a*) When presented to any officer of the Customs or Excise Department or to any Magistrate by any person having dealings with the Government, and when the subject matter of such application relates exclusively to those dealings ;	One anna
	or when presented to any officer of Land Revenue by any person holding temporarily settled land under direct engagement with Government and when the subject matter of the application or petition relates exclusively to such engagement;	Two annas
	or when presented to any Municipal Council or Commissioner under any Act for the time being in force for the conservancy or improvement of any place, if the application or petition relates solely to such conservancy or improvement ;	One anna
	or when presented to any Civil Court other than a principal Civil Court of original jurisdiction, or to any Court of Small Causes, or to a Deputy Commissioner or other officer of revenue in relation to any suit or case in which the amount or value of the subject matter is less than fifty rupees;	Two annas
	or when presented to any Civil, Criminal or Revenue Court, or to any Board or Executive Officer for the purpose of obtaining a copy or translation of any judgment, decree or order passed by such Court, Board or Officer, or of any other document on record in such Court or office.	

1. Substituted by Act VIII of 1922.
2. Substituted by Act 9 of 1954.

(Schedule II)

SCHEDULE II—*contd.*

Number		Proper fee
	(*b*) When containing a complaint or charge of any offence other than an offence for which Police Officers may, under the Criminal Procedure Code, arrest without warrant and presented to any Criminal Court; or when presented to a Civil, Criminal or Revenue Court, or to a Deputy Commissioner, or any Revenue Officer having jurisdiction equal or subordinate to a Deputy Commissioner, or to any Magistrate in his executive capacity and not otherwise provided for by this Act;	In the case of a Criminal complaint, one rupee and in other cases twelve annas.
	or to deposit in Court revenue or rent; or for determination by a Court of the amount of compensation to be paid by landlord to his tenant.	Eight annas
	(*c*) When presented to a Chief Controlling Revenue or Executive Authority, or to any Chief Officer charged with the Executive Administration of a division and not otherwise provided for by this Act.	One rupee, eight annas
	(*d*) (i) When presented to the High Court for the issue of a writ under Article 226 of the Constitution of India other than a writ of Habeas Corpus;	Twenty rupees
	(ii) when presented to the High Court under section 115 of the Code of Civil Procedure, 1908 (Central Act V of 1908) for revision of an order—	
	(*a*) when the value of the suit or proceeding to which the order relates does not exceed thousand rupees;	Five rupees

(*Schedule II*)

SCHEDULE II—*contd.*

Number		Proper fee
	(*b*) when the value of the suit or proceeding exceeds thousand rupees :	Ten rupees
	(iii) when presented to the High Court in cases other than those referred to in sub-clauses (i) and (ii).	Two rupees
1-A. Application to any Civil Court that records may be called for from another Court.	When the Court grants the application and is of opinion that the transmission of such records involves the use of the post.	Twelve annas in addition to any fee levied on the application under clause (*a*), clause (*b*), or clause (*d*) of Article 1 of this schedule.
2. Application for leave to sue as a pauper.	...	Eight annas
3. Application for leave to appeal as a pauper.	(a) when presented to a District Court or a Sub-Court.	One rupee
	(*b*) When presented to the [1] [High Court.]	Two rupees
4. Plaint or memorandum of appeal in a suit to establish or disprove a right of occupancy.	...	Eight annas
5 Bail-bond or other instrument of obligation given in pursuance of an order made by a Court or Magistrate under any section of the [2] [Code of Criminal Procedure, 1898, (Central Act V of 1898)] or the [2] [Code of Civil Procedure, 1908 (Central Act V of 1908)] and not otherwise provided for in this Act.	...	Eight annas

1. The words "High Court" were substituted for the words "Chief Court" by Act XII of 1930.
2. Substituted by Act 9 of 1954.

(Schedule II)

SCHEDULE II—*contd.*

Number		Proper fee
6. Mukhtar-nama or Vakalat-nama	When presented for the conduct of any one case— (*a*) to any Civil or Criminal Court other than the [2][High Court] or to any Revenue Court, or to any Deputy Commissioner or Magistrate, or other Executive Officer, except those mentioned in clause (*b*) of this number; (*b*) to the [2][High Court,] or Chief Controlling Revenue or Executive Authority.	[1][One rupee] [1][Three rupees]
7. [3]Memoran-dum of appeal when the appeal is from an order inclusive of an order determin-ing any question under Section 47 or Section 144 of the [1][Code of Civil Procedure, 1908, (Central Act V of 1908)] and is presented.	(*a*) to any Civil Court other than the [2][High Court] or to any Revenue Court or Executive officer other than the [2][High Court] or Chief Controlling Revenue or Executive Authority; (*b*) to the [2][High Court] or Chief Controlling Executive or Revenue Authority.	[1][One rupee] Two rupees
8. Caveat.	...	Ten rupees
9. Petition in a suit under the Native Converts' Marriage Dissolu-tion Act, 1866.	...	Five rupees
10. [ ]		

1. Substituted by Act 9 of 1954.
2. The Words "High Court" were substituted for the words "Chief Court" by Act XII of 1930.
3. Substituted for the original words "Memorandum of appeal" by Act I of 1924.
4. Repealed by Act III of 1911.

SCHEDULE II—*contd.*

Number		Proper fee
[1][11. Plaint or memorandum of appeal in a suit—		
(i) to alter or set aside a summary decision or order of any civil court or Revenue Court ;	...	Fifteen rupees.
(ii) to alter or cancel any entry in a register of the names of Proprietors of revenue paying estates ;		
(iii) for relief under section 91 or section 92 of the Code of Civil Procedure, 1908.	...	Fifty rupees.
11-A. Plaint or memorandum of appeal in a suit—		
(i) to obtain a declaratory decree where no consequential relief is prayed ;	When the plaint is presented to or the memorandum of appeal is against the decree of—	
(ii) to set aside an award ;	(*a*) Munsiff's Court	Fifteen rupees.
(iii) to obtain a declaration that an alleged adoption is invalid or never in fact took place or to obtain a declaration that an adoption is valid.	(*b*) a District Court or Sub-Court	Hundred rupees if the value for purposes of jurisdiction is less than ten thousand rupees ; five hundred rupees if such value is ten thousand rupees or upwards.

1. Substituted by Act XVIII of 1952.

(Schedule II)

SCHEDULE II—*concld.*

Number		Proper fee
11-B. Plaint or memorandum of appeal in every suit where it is not possible to estimate at a money value the subject-matter in dispute and which is not otherwise provided for by this Act.	When the plaint is presented to or the memorandum of appeal is against the decree of,—	
	(*a*) a Revenue Court	Ten rupees.
	(*b*) a Munsiff's Court	Fifteen rupees.
	(*c*) a District Court or Sub-Court.	One hundred rupees.]
12. [1][Application under section 14 or section 20 of the Arbitration Act, 1940, for a direction for filing an award or for an order for filing an agreement.]	When presented to a Munsiff's Court.	Fifteen rupees
13. Agreement in writing stating a question for the opinion of the Court under the [1][Code of Civil Procedure, 1908, (Central Act V of 1908..]	When presented to a District Court or a Sub-Court.	[1][One hundred rupees]
[2][14. Every petition under the Indian Divorce Act, 1869, except petitions under section 44 of the same Act, and every memorandum of appeal under section 55 of the same Act.	...	Twenty rupees
15. Plaint or memorandum of appeal under the Parsi Marriage and Divorce Act, 1936.	...	Twenty rupees.]

1. Substituted by Act 9 of 1951.
2. Added by Act XVIII of 1952.

(Schedule III)

SCHEDULE III.

FORM OF VALUATION (TO BE USED WITH SUCH MODIFICATIONS, IF ANY, AS MAY BE NECESSARY.)

(See *Section* 25.)

IN THE COURT OF

Re : *Probate of the will of*.....(*or Administration of the property and credits of* .....) *deceased*

I {Solemnly affirm / make oath}

and say that I am the executor (or one of the executors or one of the next of kin of deceased, and that I have truly set forth in Annexure A to this affidavit all the property and credits of which the above named deceased died, possessed or was entitled to at the time of his death, and which have come, or are likely to come, to my hands.

2. I further say that I have also truly set forth in Annexure B all the items I am by law allowed to deduct.

3. I further say that the said assets exclusive only of such last mentioned items but inclusive of all rents, interest, dividends and increased values since the date of the death of the said deceased, are under the value of.

ANNEXURE A.

VALUATION OF THE MOVEABLE AND IMMOVEABLE PROPERTY OF DECEASED.

	Rs.	a.	p.
Cash in the house and at the banks, household goods, wearing-apparel, books, plate, jewels, etc. (*State estimated value according to best of Executor's or Administrator's belief.*)			
Property in Government securities transferable at the Public Debt Office. (*State description and value at the price of the day ; also the interest separately calculating it to the time of making the application.*)			
Immoveable property, consisting of (*State description giving, in the case of houses the assessed value, if any, and the number of years' assessment the market-value is estimated at and in the case of land, the area, the market-value and all rents that have accrued.*)			

(Schedule III)

SCHEDULE III—FORM OF VALUATION—*concld.*

ANNEXURE A—*concld.*

	Rs.	a.	p.
Leasehold Property. (*If the deceased held any leases for years determinable, state the number of years' purchase the profit rents, are estimated to be worth and the value of such inserting separately arrears due at the date of death and all rents received or due since that date to the time of making the application.*)			
Property in public companies. (*State the particulars and the value calculated at the price of the day ; also the interest separately, calculating it to the time of making the application.*)			
Policy of Insurance upon life, money out on mortgage and other securities, such as bonds, mortgages, bills, notes and other securities, for money. (*State the amount of the whole ; also the interest separately calculating it to the time of making the application.*)			
Book debts ... ... (*Other than bond.*)			
Stock in trade ... ... (*State the estimated value, if any.*)			
Other property not comprised under the foregoing heads (*State the estimated value, if any.*)			
Total ...			
Deduct amount shown in Annexure B not subject to duty			
Net Total ...			

ANNEXURE B.

SCHEDULE OF DEBTS, ETC.

	Rs.	a.	p.
Amount of debts due and owing from the deceased, payable by law out of the estate.			
Amount of funeral expenses			
Amount of mortgage incumbrances			
Property held in trust not beneficially or with general power to confer a beneficial interest.			
Other property not subject to duty			
Total ...			

(*Schedule IV*)

SCHEDULE IV.

ENACTMENTS REPEALED.

(See *Section* 2.)

Year	No.	Short title or subject	Extent of repeal
1870	VII	The Court Fees Act, 1870, as applied to Mysore by Notification of the Government of India, Foreign Department, Judicial No. 94, dated the 17th June 1870.	The whole.
1872	XV	The Indian Christian Marriage Act, 1872, as applied to Mysore by Notification of the Government of India, Foreign Department, Judicial, 176—J., dated the 31st December 1875.	So much of Section 2, as relates to the Court Fees Act, 1870.
*1901	VII	The Mysore Succession Certificate Act	Section 13.

**Vide* Section 3 of Act I of 1924.

THE MYSORE FOREST ACT, 1900.

Arrangement of sections.

PREAMBLE.

CHAPTER I.

PRELIMINARY

Sections

1. Title, extent and commencement.
Repeal of Forest Rules of 1878.
2. Interpretation clause.

CHAPTER II.

STATE FORESTS.

3. Power to constitute State Forests.
4. Notification by Government.
5. Proclamation by Forest Settlement Officer.
6. Bar of accrual of forest rights.
7. Enquiry by Forest Settlement Officer.
8. Powers of Forest Settlement Officer.
9. Exhibition of rights.
10. Power to acquire land over which right is claimed.
11. Order on claims to rights of way or pasture or to forest produce or water.
12. Record to be made where claim is admitted.
13. Exercise of admitted rights.
14. Commutation of rights.
15. Appeal from order passed under sections 10, 11, 12, 13 or 14.
16. Appeal under section 15.
17. Notification declaring forest a State Forest.
18. Publication of translation of such notification in neighbourhood of forest.
19. Power to revise arrangement made under section 13 or 16.
20. Acquisition of rights over State Forests.
21. Alienation of rights in State Forests.
22. Power to stop ways and water-courses in State Forests.
23. State Forests constituted previous to the passing of this Act.
24. Penalties for trespass or damage in State Forests.
25. Acts prohibited in State Forests.
26. Acts excepted from sections 24 and 25.
27. Privileges may be granted in State Forests.
28. Penalty for offences committed by persons having rights in State Forests.
29. Persons bound to assist Forest Officer and Police Officer.
30. Power to declare forests no longer State Forests.

CHAPTER III.

VILLAGE FORESTS.

Sections

31. Constitution of Village Forests.
32. Power to make rules for Village Forests.
33. Inquiry into, and settlement of, rights.

CHAPTER IV.

DISTRICT FORESTS.

34. Power to grant privileges in District Forests.
35. Power to make rules for District Forests.
36. Penalties for acts in contravention of rules.
36-A. Suspension of rights in cases of fires caused wilfully or by gross negligence.
36-B. Persons bound to assist Forest Officer and Police Officer.

CHAPTER IV-A.

CONTROL OVER FORESTS AND LANDS NOT AT THE DISPOSAL OF GOVERNMENT OR IN WHICH GOVERNMENT HAS LIMITED INTEREST.

36-C. Protection of forests at request of owners.
36-D. Management of forests, the joint property of Government and other persons.
36-E. Persons employed to carry out the Act to be deemed Forest Officers.

CHAPTER V.

CONTROL OF FOREST PRODUCE IN TRANSIT.

37. Power to make rules to regulate transit of forest produce.
38. Penalties for breach of rules under the last foregoing section.

CHAPTER VI.

COLLECTION OF DRIFT, STRANDED AND OTHER TIMBER.

39. Certain kinds of timber to be deemed the property of Government until title thereto proved.
40. Notice to claimants of timber of those kinds.
41. Procedure on claim preferred to such timber.
42. Disposal of unclaimed timber.
43. Payments to be made by claimants before timber is delivered to him.
44. Power to make rules and prescribe penalties.

CHAPTER VII.

PENALTIES AND PROCEDURE.

45. Seizure of property liable to confiscation.
46. Procedure on receipt by Magistrate of report of seizure.
47. Forest produce, tools, etc., when liable to confiscation.
48. Disposal, on conclusion of trial for forest offence, of produce in respect of which it was committed.

Sections.

49. Procedure when offender is not known or cannot be found.
50. Procedure as to perishable property seized under section 45.
51. Appeal from orders under sections 47, 48 and 49.
52 Vesting of confiscated property in Government.
53. Saving of power to release property seized.
54. Punishment for wrongful seizure.
55. Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary marks.
56. Power to arrest without warrant.
57. Power to prevent commission of offence.
58. Operation of other laws not barred.
59. Power to compound offences.
60. Presumption that forest produce belongs to Government.
61. Compensation for damage caused by commission of offences.
62. Forfeiture of leases.

CHAPTER VIII.

CATTLE TRESPASS.

63. Cattle Trespass Act, 1871, as amended by Act VIII of 1892, to apply.
64. Power to alter fines fixed by that Act.

CHAPTER IX.

FOREST OFFICERS.

65. Investiture of Forest Officers with certain powers.
66. Forest Officers deemed public servants.
67. Indemnity for acts done in good faith.
68. Forest Officers not to trade.

CHAPTER X.

SUPPLEMENTAL PROVISIONS.

69. Forest rights of inamdars entitled to timber and sandalwood.
70. Forest rights of inamdars not entitled to timber and sandalwood.
71. Removal of forest produce from inam lands.
72. Sandalwood, the exclusive property of Government.
73. Responsibility of occupants and holders for preservation of sandal trees.
74. Penalty for offence in regard to sandalwood.
75. Regulation of the manufacture of sandalwood oil.
76. Additional powers to make rules.
77. Rules when to have force of law.
78. Penalties for breach of rules.
79. Recovery of money due to Government.
80. Lien on forest produce for such money.
Power to sell such produce.
81. Government and its officers not liable for loss or damage in respect of certain forest produce.
82. All persons bound to aid in case of accident at station or depot.
83. Land required under this Act to be deemed to be needed for a public purpose under the Land Acquisition Act.
84. Recovery of penalties due under bond.

MYSORE ACT No. XI OF 1900.

THE MYSORE FOREST ACT, 1900.

(*As amended by Acts* IX *of* 1901, VII *of* 1920, IV *of* 1927, IV *of* 1932, II *of* 1935, XXV *of* 1945 *and* VI *of* 1952.)

(PASSED ON THE 16TH DAY OF NOVEMBER 1900.)

An Act to amend the Law relating to Forests and Forest Produce in [1][the State of Mysore except Bellary District.]

Preamble.

Whereas it is expedient to amend the law relating to forests and forest produce in [1][the State of Mysore except Bellary District]; Her Highness the Maharani-Regent is pleased to enact as follows :—

CHAPTER I.

PRELIMINARY.

Title, extent and commencement.

1. (1) This Act may be called the Mysore Forest Act, 1900.

(2) It extends to the [1][whole of the State of Mysore except Bellary District]; provided that the Government may, by notification in the official Gazette, exempt any place from the operation of the whole or any part thereof, and withdraw such exemption ; and

[2][(3) It shall come into force on such date as the Government may, by notification in the official Gazette, direct.

(4) A notification under the proviso to sub-section (2), exempting a place from the operation of the whole or any part of this Act, shall not affect anything done, or any offence committed, or any fine or penalty imposed, in such place before such exemption.

Repeal of Forest Rules of 1878.

(5) On and from the date on which this Act comes into force, the "Rules for the administration of Forests and waste lands in the Territories of His Highness the Maharaja of Mysore," published under the Notification of the

1. See the Mysore Adaptation of Laws Order, 1953.
2. The Act came into force on the 1st day of January 1901. (*Notification No.* 7316—*Legis.* 53, *dated* 24*th November* 1900).

(Chapter I—Preliminary)

Governor-General of India in Council, No. 588 F., dated the 8th June 1878, shall be repealed. But all acts done, proceedings had, appointments made, powers conferred, subsidiary rules prescribed and notifications published under the said Rules of 1878, or under any other law relating to matters for which this Act provides shall, so far as they are not inconsistent with this Act, be deemed to have been respectively done, had, made, conferred, prescribed and published under this Act.

Interpretation clause.

2. In this Act and in all rules made thereunder unless there be something repugnant in the subject or context—

Forest Officer.

(1) "Forest Officer" means any person appointed by name or as holding an office, by or under the orders of the Government, to be a Conservator, Deputy Conservator, Assistant Conservator, Sub-Assistant Conservator, Forest Ranger, Forester, Forest Guard or Watcher, or to discharge any function of a Forest Officer under this Act or any rule thereunder:

District Forest Officer.

(2) "District Forest Officer" means the chief Forest Officer of a district, or of a portion of a district if in independent charge of such portion:

Tree.

(3) "Tree" includes stumps, palms, bamboos, canes, and brushwood:

Timber.

(4) "Timber" includes trees when they have fallen or have been felled, and all wood whether cut up [1][or sawn] or fashioned or hollowed out for any purpose or not:

Forest produce.

(5) "Forest produce" includes—

(*a*) the following, whether found in or brought from a forest or not, that is to say, timber, charcoal, caoutchouc, catechu, wood oil, [2]Sandal wood oil, resin, natural varnish, bark, lac, mahua flowers and myrabolams, and

(*b*) the following whether found in or brought from a forest, that is to say—

(i) trees and leaves, flowers and fruits, and all other parts or produce not hereinbefore mentioned of trees,

1. Inserted by Act VI of 1952.
2. Inserted by Act VII of 1920.

(ii) plants not being trees (including grass, creepers, reeds and moss) and all parts or produce of such plants,

(iii) wild animals and skins, tusks, horns, bones, silk, cocoons, honey and wax, and all other parts or produce of animals, and

(iv) peat, surface-soil, rock and minerals, including limestone, laterite, mineral oils, and all products of mines or quarries :

Forest offence. (6) "Forest offence" means an offence punishable under this Act or any rule issued thereunder :

Cattle. (7) "Cattle" includes also elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, rams, ewes, sheep, lambs, goats and kinds :

River. (8) "River" includes also streams, canals, creeks and other channels, natural or artificial :

Land at the disposal of Government. (9) "Land at the disposal of Government" means land in respect of which no person has acquired—

(*a*) a permanent, heritable and transferable right of use and occupancy under any law for the time being in force ; or

(*b*) any right created by grant or lease made or continued by, or on behalf of, Government :

Magistrate. (10) "Magistrate" means a Magistrate of the first or second class, and includes a Magistrate of the third class when he is specially empowered by Government to try forest offences :

State Forest. (11) "State Forest" means any land settled and notified as such in accordance with the provisions of Chapter II of this Act.

Village Forest. (12) "Village Forest" means any land notified as such in accordance with the provisions of Chapter III of this Act :

District Forest. (13) "District Forest" includes all land at the disposal of Government not included within the limits of any State or Village Forest nor assigned at the survey settlement as free grazing ground or for any other public or communal purpose :

Provided that it shall be competent for Government to modify or set aside such assignment and constitute any

such land a State, Village or District Forest, or devote the same to any other purpose it may deem fit.

CHAPTER II.

STATE FORESTS.

Power to constitute State Forests.

3. Any land at the disposal of Government may be constituted a State Forest in the manner hereinafter provided.

Notification by Government.

4. Whenever it is proposed to constitute any land a State Forest, the Government shall publish a notification in the official Gazette—

(*a*) specifying as nearly as possible the situation and limits of such land ;

(*b*) declaring that it is proposed to constitute such land a State Forest ; and

(*c*) appointing an officer (hereinafter called " the Forest Settlement Officer ") to inquire into and determine the existence, nature and extent of any rights claimed by, or alleged to exist in favour of, any person in or over any land comprised within such limits, or to any forest produce of such land, and to deal with the same as provided in this chapter.

The officer appointed under clause (*c*) of this section shall ordinarily be a person other than a Forest Officer ; but a Forest Officer may be appointed by the Government to assist the Forest Settlement Officer in the enquiry prescribed by this chapter.

Proclamation by Forest Settlement Officer.

5. When a notification has been published under section 4, the Forest Settlement Officer shall publish, in Kanarese, in the official Gazette and at the headquarters of each taluk in which any portion of the land comprised in such notification is situate, and in every town and village in the neighbourhood of such land, a proclamation—

(*a*) specifying as nearly as possible the situation and limits of the proposed forest ;

(*b*) setting forth the substance of the provisions of section 6 ;

(*c*) explaining the consequences which, as hereinafter provided, will ensue on such forest being constituted a State Forest ; and

(*d*) fixing a period of not less than three months from the date of publishing such proclamation, and requiring every person claiming any right or making any claim referred to or mentioned in section 4, either to present to such officer within such period a written notice specifying, or to appear before him within such period and state, the nature of such right or claim, and in either case to produce all documents in support thereof.

Bar of accrual of forest rights.

6. (1) During the interval between the publication of such proclamation and the date fixed by the notification declaring the forest to be a State Forest as hereinafter provided, no right shall be acquired in or over the land comprised in such notification, except by succession or under a grant or contract in writing made or entered into by, or on behalf of, the Government or some person in whom such right, or power to create such right, was vested when the proclamation was published; and, on such land no new house shall be built or plantation formed, no fresh clearings, for cultivation or for any other purpose shall be made, and no trees shall be cut for the purpose of trade or manufacture except as hereinafter provided. No right of occupancy shall, without the previous sanction of Government, be granted in respect of such land, and every right of occupancy granted without such sanction shall be null and void.

(2) Nothing in this section shall be deemed to prohibit any act done under the written permission of the Forest Settlement Officer.

(3) No Civil Court shall, between the dates of publication of the notification under section 4 and of the final notification to be issued under section 17, entertain any suit to establish any right in or over any land or to the forest produce of any land included in the notification under section 4.

Enquiry by Forest Settlement Officer.

7. The Forest Settlement Officer shall take down in writing all statements made under section 5 (*b*), and shall, at some convenient place, enquire into all claims duly preferred under that section, and into the existence and extent of any rights mentioned in section 4 (*c*) and not claimed under section 5 (*b*), so far as the same may be ascertainable from the records of Government and the

evidence of any persons likely to be acquainted with the same.

The Forest Settlement Officer shall, at the same time, consider and record any objection which the Forest Officer, if any, appointed to assist him may make to any such claim or any information which he may afford with regard to the existence and extent of any such right.

Powers of Forest Settlement Officer.

8. For the purposes of such enquiry the Forest Settlement Officer may exercise the following powers :—

(i) power to enter, by himself or any officer authorised by him for the purpose, upon any land, and to survey, demarcate and make a map of the same; and

(ii) the powers of a Civil Court in the trial of suits.

Extinction of rights.

9. Rights in respect of which no claim has been preferred under section 5 and of the existence of which no knowledge has been acquired by enquiry under section 7, shall be extinguished unless, before the final notification under section 17 is published, the person claiming them satisfies the Forest Settlement Officer that he had sufficient cause for not preferring such claim within the period fixed under section 5 (*d*), in which case the Forest Settlement Officer shall proceed to dispose of the claim as hereinafter provided.

Power to acquire land over which right is claimed.

10. In the case of a claim to a right in or over any land (other than a right of way or pasture or a right to forest produce or water), or in respect of any building standing on such land, the Forest Settlement Officer shall pass an order admitting or rejecting the same in whole or in part.

If such claim is admitted in whole or in part, the Forest Settlement Officer shall either—

(1) exclude such land or building from the limits of the proposed State Forest, or

(2) come to an agreement with the owner for the surrender of his rights, or

(3) proceed to acquire such land in the manner provided by the Mysore Land Acquisition Act, 1894.

For the purpose of so acquiring such land or buildings—

(*a*) the Forest Settlement Officer shall be deemed to be a Deputy Commissioner proceeding under the Mysore Land Acquisition Act, 1894;

(*b*) the claimant shall be deemed to be a person interested and appearing before him in pursuance of a notice given under section 9 of that Act;

(*c*) the provisions of the preceding sections of that Act shall be deemed to have been complied with; and

(*d*) the Forest Settlement Officer with the consent of the claimant, or the Court (as defined in the said Act) with the consent of the claimant and the Deputy Commissioner of the District, may award compensation in land, or partly in land and partly in money.

Order on claims to rights of way or pasture or to forest produce or water.

11. In the case of a claim to rights of way or pasture or to forest produce or water, the Forest Settlement Officer shall pass an order specifying the particulars of such claim and admitting or rejecting the same in whole or in part.

Record to be made where claim is admitted

12. If the Forest Settlement Officer admits in whole or in part any claim under section 11, he shall record the extent to which the claim is so admitted, specifying—

(*a*) in the case of rights of way, by whom they may be enjoyed, the width of way, and whether for cart traffic or for men and cattle only, and the conditions, if any, attached to the right;

(*b*) in the case of pasturage, the number and description of cattle only which the claimant is from time to time entitled to be grazed in the forest, the season during which such pasturage is permitted, and any conditions attached to the right;

(*c*) in the case of forest produce, the quantity of timber or other forest produce which the claimant is entitled to take or receive, whether the benefit of such timber or other forest produce may be leased, sold or bartered, and such other particulars as may be necessary in order to define the nature, incidents and extent of the right; and

(*d*) in the case of water, by whom and for what purposes the water may be utilized, and any conditions attached to its use.

Exercise of admitted rights.

13. After making such record, the Forest Settlement Officer shall pass such order as will as far as possible, ensure the continued exercise of admitted rights.

For this purpose the Forest Settlement Officer may—

(*a*) provide some other reasonably convenient right of way; or

(*b*) set out some other forest tract of sufficient extent, and in a locality reasonably convenient, for the exercise of rights to pasturage or other forest produce, and record an order conferring such rights on claimants to the admitted extent; or

(*c*) so alter the limits of the proposed State Forest as to exclude the tract over which rights of way or water extend or to exclude forest land of sufficient extent and in a locality reasonably convenient for the purposes of the claimants with regard to pasturage or other forest produce. Land so excluded may be either outside the boundaries of the forest as finally settled or within them, in which latter case it shall be demarcated and notified as an enclosure within which the rules relating to State Forest shall not apply; or

(*d*) record an order, continuing to claimants the right of way or to pasturage or other forest produce or water (as the case may be) to the admittd extent, at such seasons, within such portions of the proposed State Forests, and under such rules, as may from time to time be prescribed by Government to ensure the continuance but non-abuse of such rights.

Commutation of rights.

14. In case the Forest Settlement Officer finds it impossible, having due regard to the maintenance of the proposed State Forest, to make such settlement under section 13 as shall ensure the continued exercise of the said rights to the admitted extent, he shall (subject to such rules as the Government may from time to time prescribe in this behalf) commute such rights, either by the payment of a sum of money in lieu thereof, or, with

the consent of the claimant, by the grant of land, or in such other manner as such officer thinks fit.

Appeal from order passed under sections 10, 11, 12, 13 or 14.

15. Any person who has made a claim under this chapter or any Forest Officer or other person generally or specially empowered by the Government in this behalf, may, within three months from the date of the order passed on such claim by the Forest Settlement Officer under section 10, 11, 12, 13 or 14, prefer an appeal from such order to such officer of the Revenue Department, of rank not lower than that of a Deputy Commissioner, as the Government may, by notification in the official Gazette, appoint by name, or as holding an office, to hear appeals from such orders.

Appeal under section 15.

16. Every appeal under the last foregoing section shall be made by petition in writing and may be delivered to the Forest Settlement Officer, who shall forward it without delay to the appellate authority.

Every such appeal shall be heard and determined in the manner prescribed for the time being for the disposal of appeals in matters relating to land revenue; and the order passed on the appeal shall be final, subject only to revision by the Government.

Notification declaring forest State Forest.

17. When the following events have occurred, *viz.*—

(*a*) the period fixed under section 5 for preferring claims has elapsed, and all claims, (if any) made within such period have been disposed of by the Forest Settlement Officer; and

(*b*) if such claims have been made, the period fixed by section 15 for appealing from the orders passed on such claims has elapsed, and all appeals, (if any) presented within such period have been disposed of by the appellate authority; and

(*c*) all proceedings prescribed by sections 10 and 13 have been taken and all lands or buildings, (if any) to be included in the proposed State Forest, which the Forest Settlement Officer has under section 10 elected to acquire under the Mysore Land Acquisition Act, 1894, have become vested in Government under section 16 of that Act;

the Government may publish a notification in the official Gazette specifying the limits of the forest which

it is intended to constitute a State Forest and declaring the same to be a State Forest from a date fixed by such notification, subject to the exercise of rights (if any) specified at foot of the said notification.

From the date so fixed such forest shall be deemed to be a "State Forest".

Publication of translation of such notification in neighbourhood of forest.

18. The Deputy Commissioner shall, before the date fixed by such notification, cause a translation thereof in Kanarese to be published in the official Gazette and at the headquarters of the taluk in which the forest is situated, and in every town and village in the neighbourhood of such forest, in the manner prescribed for the proclamation under section 5.

Power to revise arrangement made under section 13 or 16.

19. The Government may, within five years from the publication of any notification under section 17 revise any arrangement made under section 13, and may for this purpose, rescind or modify any order made under section 13 or 16, and direct that any one of the proceedings specified in section 13 be taken in lieu of any other of such proceedings, or that the rights admitted under section 11 be commuted under section 14.

Acquisition of rights over State Forests.

20. No right of any description shall be acquired in or over a State Forest, except by succession or under grant or contract in writing made by or on behalf of the Government or of some person in whom such right or the power to create such right was vested when the notification under section 17 was published.

Alienation of rights in State Forests.

21. Notwithstanding anything contained in section 20, no right continued under section 13 shall be alienated by way of grant, sale, lease, mortgage or otherwise, without the sanction of Government:

Provided that, when any such right is appendant to any land or building, it may be sold or otherwise alienated with such land or building without such sanction.

The benefit of any right continued under section 13 shall not in any case be leased, sold or bartered except to the extent defined by the order recorded under that section or under section 16.

Power to stop way and water-courses in State Forests.

22. Any Forest Officer may, from time to time, with the previous sanction of Government, or of a Forest or other officer authorized by Government in that behalf, stop any public or private way or water-course in a State Forest.

Provided that for the way or water-course so stopped another way or water-course which, in the opinion of the Government or officer authorised as aforesaid, is equally convenient, already exists or has been provided or constructed.

State Forests constituted previous to the passing of this Act.

23. The Government may, by notification in the official Gazette, declare that any forest which has been notified as a State Forest previous to the date on which this Act comes into force, shall be a State Forest under this Act:

Provided that if the rights of private persons to or over any land or forest produce in such forest shall not have been enquired into, settled and recorded in a manner which the Government deems sufficient, the same shall be enquired into, settled and recorded in the manner provided by this Act; and, until such enquiry, settlement and record have been completed, no such declaration shall abridge or affect such rights.

All questions decided, orders issued and records prepared in connection with the constitution of such forest as a State Forest shall be deemed to have been decided, issued and prepared hereunder, and the provisions of this Act relating to State Forests shall apply to forests notified under this section.

Penalties for trespass or damage in State Forests.

24. Any person who in a State Forest—

(*a*) trespasses, or pastures cattle, or permits cattle to trespass, or

(*b*) causes any damage by negligence in felling any tree or cutting or dragging any timber, or strips of the bark or leaves from, or otherwise damages any tree or shrub, or

(*c*) poisons or dynamites water, or, in contravention of any rules made by the Government, hunts, shoots, fishes, or sets traps or snares,

shall be punished with fine which may extend to fifty rupees or, when the damage resulting from his offence amounts to more than twenty-five rupees, to double the amount of such damage.

Acts prohibited in State Forests.

25. Any person who--

(*a*) makes any fresh clearing prohibited by section 6, or

(*b*) sets fire to a State Forest, or, in contravention of any rules made by the Government, kindles any fire, or leaves any fire burning, in such manner as to endanger such a forest,

or who, in any such forest,

(*c*) kindles, keeps or carries any fire except at such seasons and in such manner as a Forest Officer duly empowered in this behalf may from time to time notify, or

(*d*) fells, cuts, girdles, marks, lops, taps or injures by fire or otherwise any tree, or

(*e*) quarries stone, burns lime or charcoal, or collects, subjects to any manufacturing process, or removes, any forest produce, or

(*f*) clears or breaks up any land for cultivation or any other purpose,

shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

Acts excepted from sections 24 and 25.

26. Nothing in section 24 or section 25 shall be deemed to prohibit—

(*a*) the exercise, in accordance with the rules, if any made by the Government under section 13, of any right continued under that section, or

(*b*) the exercise of any right created by grant or contract in the manner described in section 20, or

(*c*) any act done with the permission in writing of a Forest Officer duly empowered to grant such permission.

Privileges may be granted in State Forests.

27. The Government may in any State Forest grant such privileges as may be consistent with the due maintenance of the forest ; and may, without assigning reason therefor, cancel such grant ;

Provided always that all privileges so granted shall previously be specified and recorded by the Deputy Commissioner of the District in the manner provided in section 12 :

Provided further that the exercise of any privilege under this section shall be for the use of the person

entitled thereto, and not for the purpose of export or merchandise.

Penalty for offences committed by persons having rights in State forests.

28. Whenever fire is caused wilfully or by gross negligence in a State Forest by any person having rights in such forest or by any person in his employment or whenever any person having rights in such forest contravenes the provisions of section 21, the Government may, notwithstanding the infliction of any punishment under this Act, direct that in such forest, or any specified portion thereof, the exercise of all or any of the rights of pasture or to forest produce shall be extinguished, or for such period as it thinks fit be suspended.

Persons bound to assist Forest Officer and Police Officer.

29. Every person who exercises any right in a State Forest, or who is permitted to take any forest produce from, or to cut and remove timber or to pasture cattle in, such forest, and every person who is employed by any such person in such forest, and every village officer or person in any village contiguous to such forest who is employed by Government, shall be bound to furnish without unnecessary delay to the nearest Forest Officer or Police Officer any information he may possess respecting the occurrence of fire in or near such forest or the commission of, or intention to commit, any forest offence and shall assist any Forest or Police Officer [1][* * *]

(*a*) in extinguishing any fire occurring in such forest,

(*b*) in preventing any fire which may occur in the vicinity of such forest from spreading into such forest, [2][and shall assist any Forest or Police Officer demanding his aid,]

(*c*) in preventing the commission in such forest of any forest offence, and

(*d*) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.

Power to declare forests no longer State Forests.

30. (1) The Government may, by notification in the official Gazette, direct that, from a date to be fixed by such notification, any forest constituted a State Forest

1. The words "demanding his aid" were omitted by Act IX of 1901.
2. Inserted by Act IX of 1901.

(Chapter III—Village Forests and Chapter IV—District Forests)

under this Act or any portion thereof, shall cease to be a State Forest or portion of a State Forest.

(2) From the date so fixed, such forest or portion shall cease to be of a State Forest or portion of State Forest; but the rights, if any, which have been extinguished therein shall not revive in consequence of such cessation.

CHAPTER III.

VILLAGE FORESTS.

Constitution of Village Forests.

31. (1) The Government may, by notification in the official Gazette, constitute any land at the disposal of the Government a Village Forest for the benefit of any village community or group of village communities, and may in like manner vary or cancel any such notification.

(2) Every such notification shall specify the limits of such Village Forest.

Power to make rules for Village Forests.

32. (1) The Government may make rules for regulating the management of Village Forests, prescribing the conditions under which the community or group of communities for the benefit of which any such forest is constituted may be provided with forest produce or with pasture, and their duties in respect of the protection and improvement of such forest.

(2) The Government may by such rules declare all or any of the provisions of Chapter II of this Act to be applicable to Village Forests.

Inquiry into and settlement of rights.

33. All claims to any rights other than the rights of the village community or group of village communities for the benefit of which such Village Forest is constituted shall be inquired into, recorded and provided for in the manner prescribed by Chapter II of this Act.

CHAPTER IV.

DISTRICT FORESTS.

Power to grant privileges in District Forests.

34. The Government may, in any District Forest, grant such privileges as it thinks fit in regard to the removal by cultivating raiyats or other classes of persons of forest produce required for prescribed purposes; and may without assigning reason thereof, cancel such grant: Provided

always that the exercise of any privilege under this section shall be for the use of the person entitled therein, and not for the purpose of export or merchandise.

Power to make rules for District Forests.

35. Subject to all rights now legally vested in individuals and communities, the Government may, for any district or portion of a district, make rules to regulate the use of the forest produce or of the pasturage of any land at the disposal of Government and not included in a State or Village Forest.

Such rules may amongst other things—

(i) declare that certain trees shall be classed as reserved trees not to be felled without the special sanction of the Conservator of Forests or of any officer duly authorized by him;

(ii) declare that certain trees not classed as reserved shall be granted to cultivating raiyats on favourable rates on seigniorage;

(iii) provide for placing any area at the disposal of Government under special protection, in view to its subsequent settlement and constitution as a State Forest or for any other purpose, and prescribe the conditions and penalties attendant on such special protection;

(iv) regulate or prohibit the grant of land and its clearing and breaking up for cultivation or other purposes;

(v) regulate or prohibit the kindling of fires, and prescribe the precautions to be taken to prevent the spreading of fires;

(vi) regulate or prohibit the felling, cutting, girdling, making, lopping, tapping or injuring by fire or otherwise of any trees, the sawing, conversion, and removal of trees and timber, and the collection and removal of other forest produce;

(vii) regulate or prohibit the quarrying of stone or gravel, the burning of lime or charcoal, the smelting of ore, or the boiling of catechu;

(viii) regulate or prohibit the cutting of grass and pasturing of cattle, and prescribe the payments (if any) to be made for such cutting or pasturing;

(ix) regulate or prohibit hunting, shooting, beating or driving for game, fishing, poisoning or dynamiting water, and setting traps or snares;

(x) regulate the disposal of timber and other forest produce whether by sale or by free grant;

(xi) prescribe, or authorize the Conservator and the Deputy Commissioner of the district jointly to prescribe, the fees, royalties or other payments for such timber and other forest produce, and the manner in which they shall be levied.

Penalties for acts in contravention of rules.

36. The Government may by such rules prescribe, as penalties for the infringement thereof, imprisonment for a term which may extend to one month or fine which may extend to two hundred rupees, or both:

Provided that the Government may exempt any person or class of persons from the operation of all or any of such rules.

Suspension of rights in cases of fires caused wilfully or by gross negligence.

[1][**36-A.** Whenever fire is caused wilfully or by gross negligence in any land placed under special protection under clause (iii) of section 35, the Government may (notwithstanding the infliction of any punishment under this Act) direct that in such land, or any specified portion thereof, the exercise of all or any rights of pasture or to forest produce shall, for such period as it thinks fit, be suspended.

Persons bound to assist Forest Officer and Police Officer.

36-B. Every person who exercises any right in any land placed under special protection under clause (iii) of section 35, or who is permitted to take any forest produce from, or to cut and remove timber or to pasture cattle in, such land, and every person who is employed by any such person in such land and every village officer or person in any village contiguous to such land who is employed by Government, shall be bound to furnish without unnecessary delay to the nearest Forest Officer or Police Officer, any information he may possess respecting the occurrence of fire in or near such land or the Commission of, or intention to commit, any forest offence, and shall assist any Forest or Police Officer—

(*a*) in extinguishing any fire occurring in such land,

1. Sections 36-A and 36-B were insterted by Act IX of 1901.

(Chapter IV-A—Control over Forests and Lands not at the disposal of Government or in which Government has limited interest)

(*b*) in preventing any fire which may occur in the vicinity of such land from spreading into such land,

and shall assist any Forest or Police Officer demanding his aid—

(*c*) in preventing the commission in such land of any forest offence, and

(*d*) when there is reason to believe that any such offence has been committed in such land, in discovering and arresting the offender.]

[1]CHAPTER IV-A.

CONTROL OVER FORESTS AND LANDS NOT AT THE DISPOSAL OF GOVERNMENT OR IN WHICH GOVERNMENT HAS LIMITED INTEREST.

Protection of forests at request of owners.

36-C. The owner of any land, or, if there be more than one owner thereof the owners of shares therein, whether divided or not, amounting in the aggregate to at least three-fourths thereof, may, with a view to the formation or conservation of forest thereon, represent in writing to the Conservator, their desire

(*a*) that such land be managed on their behalf by the District Forest Officer as a State Forest, on such terms as may be agreed upon; or

(*b*) that such land be managed, subject to the control of the Conservator, by a person appointed by themselves and approved by the Conservator; or

(*c*) that all or any of the provisions of this Act or Rules made thereunder be applied to such land.

The Government may in any such case, by a notification in the official Gazette, apply to such land such provisions of this Act as it thinks suitable to the circumstances thereof and as may be desired by the applicant.

Any such notification may be altered or cancelled by a like notification.

1. Chapter IV-A added by Act IV of 1927.

(Chapter V—Control of Forest Produce in Transit)

36-D. If the Government and any person or persons are jointly interested in any forest or waste land, or in the whole or any part of the produce thereof, the Government may either, Management of forests, the joint property of Government and other persons.

(*a*) undertake the management of such forest, waste land or produce accounting to such person for his interest in the same; or

(*b*) issue such regulations for the management of the forest, waste land or produce by the persons so jointly interested, as it deems necessary for the management thereof, and the interests of all parties therein.

When the Government undertakes under clause (*a*) of this section, the management of any forest, waste land or produce, it may, by notification in the official Gazette, declare that any of the provisions contained in Chapters II and IV of this Act, shall apply to such forest, waste land or produce and thereupon such provisions shall apply accordingly.

36-E. All persons employed under sections 36-C and 36-D to carry out the provisions of this Act shall be deemed to be Forest Officers within the meaning of this Act.] Persons employed to carry out the Act to be deemed Forest Officers.

CHAPTER V.

CONTROL OF FOREST PRODUCE IN TRANSIT.

37. (1) The control of all rivers and their banks as regards the floating of timber, as well as the control of all forest produce in transit by land or water, is vested in the Government, which may make rules to regulate the transit of any forest produce. Power to make rules to regulate transit of forest produce.

(2) Such rules may, among other matters,

(*a*) prescribe the routes by which alone forest produce may be imported into, exported from, or moved within, the territories to which this Act extends;

(*b*) prohibit the import, export, collection, or moving of forest produce without a pass from an officer authorized to issue the same, or otherwise than in accordance with the conditions of such pass;

(*Chapter V—Control of Forest Produce in Transit*)

(*c*) provide for the issue, production and return of such passes;

(*d*) fix, or authorize any Forest Officer, subject to the control of the Government, to fix, the fees payable for such passes;

(*e*) in the case of timber formed into a raft or fastened to the shore, prohibit the loosening or the setting adrift of such timber by any person not the owner thereof or not acting on behalf of such owner or of the Government;

(*f*) provide for the stoppage, reporting, examination and marking of forest produce in transit in respect of which there is reason to believe that any money is payable to the Government, or to which it is desirable, for the purposes of this Act, to affix a mark;

(*g*) establish revenue stations or depots to which forest produce is to be taken by the persons in charge of it for examination, or for the realisation of such money, or in order that such mark may be affixed to it, and prescribe, or authorize a Forest Officer, subject to such control as aforesaid, to prescribe, the conditions under which forest produce is to be brought to, stored at, and removed from, such revenue stations or depots;

(*h*) provide for the management and control of such revenue stations or depots and for regulating the appointment and duties of persons employed thereat;

(*i*) authorize the transport of timber across any land, and provide for the award and payment of compensation for any damage done by the transport of such timber;

(*j*) prohibit the closing up or obstruction of the channel, or banks of any river used for the transit of forest produce and the throwing of grass, brushwood, branches or leaves into any such river, or any other act which tends to cause the obstruction of such channel;

(*k*) provide for the prevention and removal of any obstruction in the channel or on the banks of any such river, and for recovering the cost of such

prevention or removal from the person causing such obstruction;

(*l*) prohibit absolutely, or subject to conditions, within specified local limits, the establishment of sawpits, [1][or saw mills or any other sawing contrivance] the converting, cutting, burning, concealing, marking or super-marking of timber, the altering or effacing of any marks on the same, and the possession or carrying of marking hammers or other implements used for marking timber; and

(*m*) regulate the use of the property marks for timber and the registration of such marks, authorize the refusal or cancellation of the registration of any property marks, prescribe the time for which the registration of property marks is to hold good, limit the number of such marks which may be registered by any one person and provide for the levy of fees for such registration.

(3) The Government may direct that any rule made under this section shall not apply to any specified class of timber or other forest produce or to any specified local area.

Penalties for breach of rules under the last foregoing section.

38. (1) The Government may, by a rule under the last foregoing section, attach to the breach of any rule under that section any punishment not exceeding imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

(2) In cases where the offence is committed after sunset and before sunrise or after preparation for resistance to the execution of any law or any legal process, or where the offender has been previously convicted of a like offence, the convicting Court may inflict double the penalty prescribed for such offence.

CHAPTER VI.

COLLECTION OF DRIFT, STRANDED, AND OTHER TIMBER.

Certain kinds of timber to be deemed the property of

39. (1) Timber falling under any of the following descriptions, namely :—

(*a*) timber found adrift, beached, stranded, or sunk;

(*b*) timber bearing marks which have not been registered under rules made under section 37;

1. Inserted by Act VI of 1952.

Government until title thereto proved.

(*c*) timber which has been supermarked, or on which marks have been obliterated, altered, or defaced by fire or otherwise; and

(*d*) in such areas as the Government directs, all unmarked timber,

shall be deemed to be the property of the Government unless and until any person establishes his right thereto as provided in this chapter.

(2) Such timber may be collected by any Forest Officer or other person entitled to collect the same, and may be brought to such stations as a Forest Officer specially empowered in this behalf may, from time to time, notify as stations for the reception of drift timber.

(3) The Government may, by notification in the official Gazette, exempt any class of timber from the provisions of this section and withdraw such exemption.

Notice to claimants of timber of those kinds.

40. (1) Public notice shall, from time to time, as occasion may require, be given by a Forest Officer specially empowered in this behalf of timber collected under the last foregoing section.

(2) Such notice shall contain a description of the timber, and shall require any person claiming the same to present to such officer, within a period not less than one month from the date on which such notice is given, a written statement of such claim.

Procedure on claim preferred to such timber.

41. (1) When any such statement is presented as aforesaid, the Forest Officer may, after making such enquiry as he thinks fit, either reject the claim after recording his reasons for so doing, or deliver the timber to the claimant.

(2) If such timber is claimed by more than one person, the Forest Officer may either deliver the same to any of such persons whom he deems entitled thereto, or may refer the claimants to the Civil Court and retain the timber pending the receipt of an order from such Court for its disposal.

(3) Any person whose claim has been rejected under this section may, within three months from the date of such rejection, institute a suit to recover possession of

the timber claimed by him, but no person shall recover any compensation against the Government or against any Forest Officer on account of such rejection or the detention or removal of any timber, or the delivery thereof to any other person under this section.

(4) No such timber shall be subject to process of any Civil Court until it has been delivered or a suit brought under this section has been decided.

Disposal of unclaimed timber.

42. Where no statement is presented in the manner and within the period prescribed by notice issued under section 40, or where, such statement having been so presented and the claim rejected, the claimant omits to institute a suit to recover possession of such timber within the further period mentioned in section 41, the ownership of such timber shall vest in the Government free from all encumbrances or when such timber has been delivered to another person under section 41 in such other person free from all encumbrances not created by him.

Payments to be made by claimant before timber is delivered to him.

43. No person shall be entitled to recover possession of any timber collected or delivered as aforesaid until such sum as may be due for salving, collecting, moving, storing, and disposing of the timber has been paid by him to the Forest Officer or other person entitled to receive the same.

Power to make rules and prescribe penalties.

44. (1) The Government may make rules to regulate the following matters, namely :—

(*a*) the salving, collection, and disposal of all timber mentioned in section 39 ;

(*b*) the use and registration of boats used in salving and collecting timber ;

(*c*) the amount to be paid for salving, collecting, moving, storing, and disposing of such timber ; and

(*d*) the use and registration of hammers and other implements to be used for marking such timber.

(2) The Government may, by a rule under this section, attach to the breach of any rule under this section any punishment not exceeding imprisonment for a term which may extend to six months, or fine which may extend to five hundred rupees, or both.

(Chapter VII - Penalties and Procedure)

CHAPTER VII.

PENALTIES AND PROCEDURE.

Seizure of property liable to confiscation.

45. (1) When there is reason to believe that a forest offence has been committed in respect of any forest produce, such produce, together with all tools, boats, carts and cattle used in the commission of such alleged offence, may be seized by any Forest Officer or Police Officer.

(2) Every officer seizing any property under this section shall place on such property, or the receptacle, if any, in which it is contained, a mark indicating that the same has been so seized, and shall, as soon as may be, make a report of such seizure to the Magistrate having jurisdiction to try the person accused of the offence on account of which the seizure has been made:

Provided that when the forest produce with respect to which such offence is believed to have been committed is the property of the Government and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

Procedure on receipt by Magistrate of report of seizure.

46. Upon the receipt of any such report, the Magistrate shall take such measures as may be necessary for the trial of the accused and the disposal of the property according to law.

Forest produce, tools, etc., when liable to confiscation.

47. (1) When any person is convicted of a forest offence, all forest produce which is not the property of the Government, and in respect of which such offence has been committed and all tools, boats, carts and cattle used in the commission of such offence, shall be liable, by order of the convicting Court, to confiscation.

(2) Such confiscation may be in addition to any other punishment prescribed for such offence.

Disposal, on conclusion of trial for Forest offence of produce in respect of which it was committed.

48. When the trial of any forest offence is concluded any forest produce in respect of which such offence has been committed shall, if it is the property of the Government, or has been confiscated, be taken possession of by a Forest Officer duly empowered in this behalf, and, in any other case, shall be disposed of in such manner as the Court may order.

(Chapter VII—Penalties and Procedure)

Procedure when offender is not known or cannot be found.

49. (1) When the offender is not known or cannot be found the Magistrate enquiring into the offence, if he finds that an offence has been committed, may, on application in this behalf, order the property in respect of which the offence has been committed, to be confiscated and taken possession of by a Forest Officer duly empowered in this behalf, or to be made over to such Forest Officer or other person as the Magistrate may consider entitled to the same:

Provided that no such order shall be made till the expiration of one month from the date of the seizure of such property, or without hearing the person, if any, claiming any right thereto, and the evidence, if any, which he may produce in support of his claim.

(2) The Magistrate shall either cause a notice of any application under sub-section (1) to be served upon any person whom he has reason to believe to be interested in the property seized, or publish such notice in any way which he may think fit.

Procedure as to perishable property seized under section 45.

50. The Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section 45 and subject to speedy and natural decay, and may deal with the proceeds as he might have dealt with such property if it had not been sold.

Appeal from orders under sections 47, 48 and 49.

51. Any person claiming to be interested in property seized under section 45 may, within one month from the date of any order passed by a Magistrate under section 47, 48, or 49, present an appeal therefrom to the Court to which orders made by such Magistrate are ordinarily appealable, and the order passed on such appeal shall be final.

Vesting of confiscated property in Government.

52. When an order for the confiscation of any property has been passed under section 47 or 49 and the period limited by section 51 for presenting an appeal from such order has elapsed, and no such appeal has been presented, or when, on such an appeal being presented, the appellate Court confirms such order in respect of the whole or a portion of such property, such property or portion, as the case may be, shall vest in the Government free from all encumbrances.

(Chapter VII—Penalties and Procedure)

Saving of power to release property seized.

53. Nothing hereinbefore contained shall be deemed to prevent any Forest Officer or other officer empowered in this behalf by the Government from directing at any time the immediate release of any property seized under section 45 which is not the property of Government, and the withdrawal of any charge made in respect of such property.

Punishment for wrongful seizure.

54. (1) Any Forest Officer or Police Officer who vexatiously and unnecessarily seizes any property on pretence of seizing property liable to confiscation under this Act shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(2) Any fine so imposed, or any portion thereof, shall if the convicting Court so directs, be given as compensation to the person aggrieved by such seizure.

Penalty for counterfeiting or defacing marks on trees and timber and for altering boundary marks.

55. Whoever, with intent to cause damage or injury to the public or to any person, or to cause wrongful gain as defined in the Indian Penal Code—

(*a*) knowingly counterfeits upon any timber or standing tree a mark used by Forest Officers to indicate that such timber or tree is the property of the Government or of some person or that it may lawfully be felled or removed by some person, or

(*b*) unlawfully affixes to any timber or standing tree a mark used by Forest Officers, or

(*c*) alters, defaces, or obliterates any such mark placed on any timber or standing tree by or under the authority of a Forest Officer, or

(*d*) alters, moves, destroys, or defaces any boundary mark of any forest or waste land to which any provisions of this Act apply,

shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

Power to arrest without warrant.

56. (1) Any Forest Officer or Police Officer may, without orders from a Magistrate and without a warrant, arrest any person reasonably suspected of having been, concerned in any forest offence punishable with imprisonment for one month or upwards, if such person refuses to give his name and residence, or gives a name or residence

which there is reason to believe to be false, or if there is reason to believe that he will abscond.

(2) Every officer making an arrest under this section shall, without unnecessary delay, take or send the person arrested before a Magistrate having jurisdiction in the case or to the officer in charge of the nearest Police Station.

Power to prevent commission of offence.

57. Every Forest Officer and every Police Officer shall prevent, and may interfere for the purpose of preventing the commission of any forest offence.

Operation of other laws not barred.

58. Nothing in this Act shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes a forest offence, or from being liable under such other law to any higher punishment or penalty than that provided by this Act or the rules made thereunder:

Provided that no person shall be punished twice for the same offence.

Power to compound offences.

59. (1) The Government may, by notification in the official Gazette, empower a Forest Officer by name, or as holding an office—

(*a*) to accept from any person against whom a reasonable suspicion exists that he has committed any forest offence other than an offence specified in section 54 or section 55, a sum of money by way of compensation for the offence which such person is suspected to have committed, and

(*b*) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.

(2) On the payment of such sum of money or such value or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any seized shall be released, and no other proceedings shall be taken against such person or property.

(3) No Forest Officer shall be empowered under this section, unless he is of a rank not inferior to that of Forest Ranger and is in receipt of a monthly salary of not less than seventy rupees, and the sum of money accepted as compensation under sub-section (1), clause (*a*), shall in no case exceed [1][five hundred rupees.]

1. Substituted by Act VI of 1952.

(4) The officer accepting such compensation shall in all cases record proceedings setting forth the circumstances and amount of compensation accepted, and a copy thereof shall be given to the person paying the compensation, and another submitted with the least possible delay to the officer's immediate official superior. The amount of compensation received shall be credited to Government without undue delay.

Presumption that forest produce belongs to Government.

60. [1][When in any proceedings taken, or in consequence of anything done, under this Act or under any other law for the time being in force in [2][the State of Mysore, except Bellary District,] a question arises as to whether any forest produce is the property of Government, such forest produce shall be deemed to be the property of Government, until the contrary is proved.

Compensation for damage caused by commission of offences.

61. (1) When any person is convicted of felling, cutting, girdling, marking, lopping, or tapping trees or of injuring them by fire or otherwise, in contravention of this Act or of any rule thereunder, the convicting Court may, in addition to any other punishment which it may award, order that person to pay to the Government such compensation, not exceeding ten rupees for each tree with respect to which the offence was committed, as it deems just.

(2) If the person convicted of the offence committed it as the agent or servant of another person the convicting Court may, unless, after hearing that other person, it is satisfied that the commission of the offence was not a consequence of his instigation or of any neglect or default on his part, order him, instead of the person who committed the offence, to pay the compensation referred to in sub-section (1).

(3) An appeal from any order under sub-section (1) or sub-section (2) shall lie to the Court to which orders made by the convicting Court are ordinarily appealable, and the order passed on such appeal shall be final.

Forfeiture of leases.

62. When the holder of any lease, license, or contract whatsoever granted or continued by or on behalf of the

1. Substituted by Act VI of 1952.
2. *See* the Mysore Adaptation of Laws Order, 1963.

Government for any of the purposes of this Act commits an offence againts this Act or any rule thereunder, or when any such offence is committed by any agent or servant of the holder of any such lease, license, or contract, and the Government is satisfied that the commission of the offence was a consequence of the instigation of such holder or of any wilful neglect or default on his part, the Government may, by order in writing, declare the lease, license, or contract to be forfeited in whole or in part with effect on and from a date to be specified in the order.

CHAPTER VIII.

Cattle Trespass.

Cattle Trespass Act, 1871, as amended by Act VIII of 1892, to apply.

63. Cattle trespassing in a State or Village Forest, or in a District Forest contrary to the provisions of section 35 and the rules made thereunder, shall be deemed to be cattle doing damage to a public plantation within the meaning of section 11 of the Cattle Trespass Act, 1871 as amended by Act VIII of 1892, and may be seized and impounded as such by any Forest Officer or Police Officer.

Power to alter fines fixed by that Act.

64. The Government may, by notification in the Official Gazette, direct that, in lieu of the fines fixed by section 12 of the Cattle Trespass Act, 1871, as amended by Act VIII of 1892, there shall be levied for each head of cattle impounded under section 63 of this Act such fines as it thinks fit but not exceeding the following, namely :—

	Rs.	a.	p.
For each elephant	10	0	0
For each buffalo or camel	2	0	0
For each horse, mare, gelding, pony, colt, filly, mule, bull, bullock, cow, or heifer ..	1	0	0
For each calf, ass, pig, ram, ewe, sheep, lamb, goat, or kid	0	8	0

CHAPTER IX.

FOREST OFFICERS.

Investiture of Forest Officers with certain powers.

65. (1) The Government may invest any Forest Officer by name, or as holding an office, with all or any of the following powers, namely :—

(*a*) power to enter upon any land and to survey, demarcate, and make a map of the same;

(*b*) the powers of a Civil Court to compel the attendance of witnesses and the production of documents;

(*c*) power to issue search-warrants under the Code of Criminal Procedure;

(*d*) power to hold inquiries into forest offences, and in the course of such inquiries to receive and record evidence;

(*e*) power to notify the easons and manner in which fire may be kindled, kept or carried in a State Forest;

(*f*) power to grant any permission referred to in sections 26 and 37;

(*g*) power to notify stations for the reception of drift timber;

(*h*) power to give public notice of timber collected under section 39;

(*i*) power to take possession of property under this Act;

(*j*) power to direct the release of property or withdrawal of charges;

and may withdraw any power so conferred.

(2) Any evidence recorded under clause (*d*) of sub-section (1) shall be admissible in any subsequent trial before a Magistrate of the alleged offender:

Provided that it has been taken in the presence of the accused person and recorded in the manner provided by section 355, section 356, or section 357 of the Code of Criminal Procedure.

Forest Officers deemed public servants.

66. All Forest Officers shall be deemed to be public servants within the meaning of the Indian Penal Code.

Indemnity for acts done in good faith

67. No suit or criminal prosecution shall lie against any public servant for anything done or omitted by him in good faith under this Act.

(Chapter X—Supplemental Provisions)

Forest Officers not to trade.

68. No Forest Officer shall, as principal or agent, trade in forest produce, or be or become interested in any lease or mortgage of any forest, or in any contract for working any forest whether in [1][the State of Mysore except Bellary District] or in foreign territory.

CHAPTER X.

SUPPLEMENTAL PROVISIONS.

Forest rights of Inamdars entitled to timber and sandalwood.

69. (1) All inamdars, who, by the terms of their sannads, or by judicial decision, are entitled to the timber and sandalwood in their inam villages, may fell and sell without previous reference any such timber, excepting sandalwood.

(2) The Conservator of Forests may cause any sandalwood growing in such inam lands to be cut and sold on behalf of the inamdars under such rules as may, from time to time, be made by the Government.

Forest rights of Inamdars not entitled to timber and sandalwood.

70. Inamdars who are not entitled by sannads or by judicial decision to the timber and sandalwood growing on their inam lands may cut and sell all wood, with the exemption of teak and sandal, growing on such lands.

Removal of forest produce from inam lands.

71. No trees, wood or timber or other forest produce shall be removed from inam lands without a pass, to be obtained under such rules as the Government may, from time to time, make; provided that no payment shall be made for such passes.

Sandalwood the exclusive property of Government.

72. All sandal trees in [1][the State of Mysore except Bellary District] shall be the exclusive property of Government, unless the same be situated in an area in which the Government may have expressly alienated its right to sandalwood.

Responsibility of occupants and holders for preservation of sandal trees.

73. (1) Every occupant or holder of land shall be responsible for the due preservation of all sandal trees growing thereon, and shall, in the event of an injury to any such tree from whatever cause at once report such fact to the nearest local Revenue Officer.

(2) Any occupant or holder who fails to report any such case of injury as aforesaid, or to prove to the

1. See the Mysore Adaptation of Laws Order, 1953.

satisfaction of a Revenue Officer not lower in rank than an Amildar or Deputy Amildar, that such injury was not caused either by his own act or by any neglect or default on his part, or by any other person at his instigation or with his connivance, shall, notwithstanding any other penalty to which he may be liable, be liable to pay to Government such compensation on account of such injury as to such Revenue Officer may seem reasonable:

[1][Provided that the Revenue Officer aforesaid, may, in cases in which he is satisfied that the person responsible for the act, neglect, default, instigation or connivance resulting in the injury was any tenant of the occupant or holder, or any other person holding under or through an occupant or holder, direct that such tenant or other person shall primarily be liable for the compensation and be proceeded against in the first instance for recovery thereof.

Explanation.—The word 'injury' used in this section includes the lopping of branches of trees resulting in material injury to them.]

Penalty for offence in regard to sandalwood.

74. In any case of a forest offence having reference to the cutting, uprooting or removal of, or damage to, a sandal tree or part of a sandal tree belonging to Government, the maximum penalty to which the offender is liable under any other section of this Act shall be doubled.

Regulation of the manufacture of sandalwood oil.

[2]**75.** [3](1) No person shall sell or attempt to sell sandalwood, or manufacture or distil or attempt to manufacture or distil oil from sandalwood, or redistil, refine or sell or attempt to redistil, refine or sell oil extracted from sandalwood, except under a license granted by such authority and subject to such restrictions and conditions as Government may from time to time, prescribe in this behalf.

[4][(2) Whoever contravenes the provisions of sub-section (1) shall be punished with imprisonment for a term which may extend to one month or fine which may extend to two hundred rupees or both.

Explanation.—In this section "sandalwood" shall include all sandalwood whether containing heart-wood or

1. Proviso added by Act IV of 1932.
2. Section 75 was substituted for the original by Act VII of 1920.
3. Section 75 renumbered as sub-section (1) by Act II of 1935.
4. Added by Act II of 1935.

not, and whether in the form of roots, billets, pieces sawn or otherwise, chips or saw dust, but does not include sandalwood carved or otherwise manufactured.]

Additional powers to make rules.

76. The Government may make rules consistent with this Act—

(*a*) to declare by what Forest Officer or class of Forest Officers the powers or duties conferred or imposed by or under this Act on a Forest Officer are to be exercised or performed;

(*b*) to regulate the procedure of Forest Settlement Officers;

(*c*) for the preservation and disposal of forest produce belonging to Government, but grown on lands belonging to or in the occupation of private persons;

(*d*) to regulate the rewards to be paid to officers and informers from the proceeds of fines and confiscations under this Act or from the public treasury; and

(*e*) generally, to carry out the object and purposes of this Act.

Rules, when to have force of law.

77. All rules made by the Government under this Act shall be published in the official Gazette, and shall thereupon have the force of law.

Penalties for breach of rules.

78. Any person breaking any rule under this Act for the breach of which no special penalty is provided shall be liable on conviction to imprisonment for a term which may extend to one month, or fine which may extend to two hundred rupees, or both.

Recovery of money due to Government.

79. All money, other than fines, payable to the Government under this Act, or under any rule made thereunder, or on account of the price of any forest produce, or of expenses incurred in the execution of this Act in respect of such forest produce, may if not paid when due, be recovered under the law for the time being in force as if it were an arrear of land revenue.

Lien on forest produce to such money.

80. (1) When any such money is payable for, or in respect of, any forest produce, the amount thereof shall be deemed to be a first charge on such produce, and such produce may be taken possession of by a Forest Officer

duly empowered in this behalf, and may be retained by him until such amount has been paid.

Power to sell such produce.

(2) If such amount is not paid when due, such Forest Officer may sell such produce by public auction, and the proceeds of the sale shall be applied first in discharging such amount.

(3) The surplus, if any, if not claimed within two months from the date of sale by the person entitled thereto, shall be forfeited to the Government.

Government and its officers not liable for loss or damage in respect of certain forest produce.

81. The Government shall not be responsible for any loss or damage which may occur in respect of forest produce while at a revenue station or depot, establishment under section 37, sub-section (2), clause (*g*), or while detained elsewhere for the purposes of this Act; and no Forest Officer shall be responsible for any such loss or damage unless he causes the same negligently, maliciously, or fraudulently.

All persons bound to aid in case of accident at station or depot.

82. In case of any accident or emergency involving danger to any property at any such station or depot, every person employed at such station or depot, whether by the Government or by any private person, shall render assistance to any Forest Officer or Police Officer demanding his aid in averting such danger and securing such property from damage or loss.

Land required under this Act to be deemed to be needed for a public purpose under the Land Acquisition Act.

83. Whenever it appears to the Government that any land is required for any of the purposes of this Act, such land shall be deemed to be needed for a public purpose within the meaning of the Land Acquisition Act, 1894, section 4.

Recovery of penalties due under bond.

84. When any person, in compliance with any rule under this Act, binds himself by any instrument to perform any duty or act, or covenants by any instrument that he or that he and his servants and agents, will abstain from any act, the whole sum mentioned in such instrument as the amount to be paid in case of a breach of the conditions thereof may, notwithstanding anything in section 74 of the Indian Contract Act, 1872, be recovered from him in case of such breach as if it were an arrear of land revenue.

MYSORE ACT No. II OF 1901.

THE MYSORE GAME AND FISH PRESERVATION ACT, 1901.

(PASSED ON THE 8TH DAY OF APRIL 1901.)

An Act to prevent the indiscriminate destruction of Wild Animals and Birds, and to provide for the protection of Game and Fish in [1][the State of Mysore except Bellary District].

WHEREAS it is expedient to prevent the indiscriminate destruction of wild animals and birds, and to provide generally for the protection of game and fish in [1][the State of Mysore except Bellary District], Her Highness the Maharani-Regent is pleased to enact as follows :— Preamble.

1. (1) This Act may be called the "Mysore Game and Fish Preservation Act, 1901." Short title.

(2) It shall extend to such local areas as may from time to time be specified by Government by notification in the *Official Gazette*. Extent and commencement.

(3) And it shall come into force at the end of six months from the date of its publication in the *Official Gazette*.[2]

2. In this Act "Game" means antelope, ibex, jungle-sheep, sambhar and all other descriptions of deer, bison, hares, jungle-fowl, spur-fowl, pea-owl, partridge, grouse, quail, wood-cock, bustare, florican, duck and teal, and shall include such other animals and birds as the Government of Mysore may by notification in the *Official Gazette*, declare to be game. "Game" defined.

3. The Government of Mysore may, from time to time, by notification in the *Official Gazette*, prohibit absolutely the killing or capture of any specified kinds of animals or birds, the killing or capture of which the Government may consider unsportsmanlike or otherwise inexpedient, provided that such animals or birds do not come under the definition of "Game" for the time being in force. Absolute protection of particular classes other than "Game."

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1. See the Mysore Adaptation of Laws Order, 1953.
2. Act II of 1901 was first published in the *Mysore Gazette*, dated 11th April, 901 (Part III).

Limited protection of particular classes killed for commercial purposes.

4. Whenever the Government of Mysore has reason to believe that any particular kinds of wild animals or birds, whether included in the definition of " Game " or not, are being largely destroyed for the sake of their skins, horns or plumage for commercial or other purposes, it may, by notification in the *Official Gazette*,

(*a*) prohibit the killing or capture of such particular kinds except under and in accordance with the conditions of a license, granted by such officer and in such form as the Government may prescribe in this behalf, and

(*b*) prohibit the killing or capture of such particular kinds either during a defined period of time, or within a defined area, or both.

Regulation of fishing.

5. (1) The Government of Mysore may, from time to time, by notification in the *Official Gazette*, make rules for the regulation and control of fishing in any stream or lake, and may, from time to time, amend or cancel any rule so made.

(2) Rules under this section may, among other matters, prohibit the poisoning of the water of any stream or lake, and prohibit or regulate the placing or throwing of any explosive or deleterious substance therein, and the use, for the capture of fish, of fixed engines and nets of a mesh below a certain size.

Close season and protection of game and fish.

6. The Government of Mysore may, from time to time, by notification in the *Official Gazette*,

(1) fix a season or seasons in every year during which it shall not be lawful for any person within any specified local area, to kill or capture, or attempt to kill or capture, game or fish of any specified kind ;

(2) prohibit altogether, for any period not exceeding five years, within any specified local area, the killing or capture of game or fish of any specified kind ;

(3) prohibit absolutely the killing or capture of the mature females or immature males or females of any specified kinds of game, or the taking out or destruction of the eggs of game birds ;

(4) prohibit or regulate the setting of nets, snares, traps, or spring-guns, the laying of poison or poisonous ingredients or preparations, or the

digging of pits, to entrap or kill game or any specified kinds of game;

(5) regulate or prohibit, except under, and in accordance with the conditions of a license granted as provided by rules to be framed by the Government, the capture and killing of game or of any specified kinds of game;

and may, from time to time, amend or cancel such notification:

Provided that no such notification shall have effect until one month from the date of its first publication in the *Official Gazette*.

Rules about the sale of game and fish.

7. The Government of Mysore may, from time to time, by notification in the *Official Gazette*, make rules regulating the sale of game and fish within any specified local area.

Penalty for certain offences.

8. Any person who wilfully kills, captures or sells, or attempts to kill, capture or sell, any animal, bird, game or fish, or does any other act, in contravention of this Act or of any rules or notification under this Act in contravention of any condition contained in a license granted under this Act or under the rules made thereunder, shall be liable on conviction to fine not exceeding one hundred rupees.

Disposal of killed or captured game or fish, or weapons, etc., belonging to the offender convicted under section 8.

9. When any person is convicted of an offence punishable under this Act, the convicting Court or Magistrate may direct that the whole or any portion of any animal, bird, game or fish, killed or captured by such person and of all weapons, implements and dogs used in and for the purpose of aiding the commission of such offence, shall be confiscated, and any license granted under this Act to such person may be cancelled by the officer who granted such license.

Fees, fines, etc., realized under Act. Rewards to informants.

10. Subject to such rules as the Government of Mysore may, from time to time, prescribe, all fees, fines levied, and sums realized by the sale of property confiscated under this Act, shall be paid into the public treasury. But the convicting Court or Magistrate may award to any person or persons on whose information the conviction was obtained, the whole or any portion of any fine imposed or of any sum realized as aforesaid.

Power to Forest and other officers to make arrests of offenders under this Act.

11. Any Forest Officer and any other Officer or person empowered, in this behalf, by the Government of Mysore or by a subordinate Revenue authority to which the Government may have delegated its authority for the purpose may arrest, without a warrant, any person who commits in his view any offence punishable under this Act or the rules thereunder, and who, on demand, refuses to give his name and address or gives a name and address which there is reason to believe is false.

Exception.

12. Nothing in this Act shall be deemed to prevent any owner or occupier of land from killing, capturing or pursuing game, doing damage to any crop growing thereon, so far as the same may be necessary for the protection of the crop.

THE MYSORE EXCISE ACT, 1901.

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MYSORE ACT No. V OF 1901.

THE MYSORE EXCISE ACT, 1901.

(*As amended by Acts IV of 1902, V of 1904, V of 1906, VIII of 1913, V of 1920, III of 1923 and XIII of 1951.*)

(PASSED ON THE 5TH DAY OF AUGUST 1901.)

An Act to consolidate and amend the Excise Law of [1][the State of Mysore except Bellary District].

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to the import, export, transport, manufacture, sale and possession of intoxicating liquor and of intoxicating drugs in [1][the State of Mysore except Bellary District]; Her Highness the Maharani-Regent is pleased to enact as follows:—

I.—PRELIMINARY AND DEFINITIONS.

Short title. 1. This Act may be cited as "The Mysore Excise Act, 1901."

Extent. It extends to the [1][whole of the State of Mysore except Bellary District].

Commencement. And it shall come into force from such date [2]as the Government by notification shall direct.

Repeal. 2. From the date on which this Act comes into force, the Excise Act, 1881, as amended by Act II of 1875 and extended to [1][the State of Mysore except Bellary District] by Act III of 1885, shall be repealed.

Provided that all licenses and leases granted under the said enactment in force on the date on which this Act comes into force in [1][the State of Mysore except Bellary District] shall continue in force for the periods for which the same have been respectively granted, subject to the provisions of that enactment :

Provided further that the said repeal shall not affect any act done, or any offence committed, or any proceedings commenced, or any claim which has arisen, or any

1. See the Mysore Adaptation of Laws Order, 1956.
2. Act No. V of 1901 came into force on the 15th September 1901. *See Notification No. 2305—Legis. 9, dated the 6th August 1901.*

penalty which has been incurred, before this act comes into force.

3. In this Act, unless there be something repugnant in the subject or context— Interpretation

(1) "Excise revenue" means revenue derived or derivable from any duty, fee, tax, rent, fine or confiscation imposed or ordered under the provisions of this Act or of any other law for the time being in force relating to liquor or intoxicating drugs. "Excise revenue"

[1][(1-A) 'Government' means the State Government;]

(2) "Excise Officer" means the Excise Commissioner, a Deputy Commissioner, or any officer or other person lawfully appointed or invested with powers under section 4 or 5. "Excise officer."

(3) "Excise Commissioner" means the officer appointed by the Government under section 4, clause (*a*). "Excise Commissioner."

(4) "Deputy Commissioner" means a Deputy Commissioner of a District, or any person appointed under section 4, clause (*b*), to exercise all the powers or to perform all the duties of a Deputy Commissioner under this Act. "Deputy Commissioner."

(5) "Excise Inspector" means an officer appointed under section 4, clause (*d*). "Excise Inspector."

(6) "Imprisonment" means imprisonment of either description as defined in the Indian Penal Code. "Imprisonment."

(7) "Toddy" means fermented or unfermented juice drawn from a coconut, palmyra, date, bagani (bastared sago) or any other kind of palm tree. "Toddy."

(8) "Spirits" means any liquor containing alcohol and obtained by distillation [1][whether it is denatured or not.]

[2][(8-A) 'Denatured' means subjected to a process prescribed by the Government by notification in the official Gazette for the purpose of rendering unfit for human consumption].

(9) "Liquor" includes spirits of wine, methylated spirits, spirits, wine, toddy, beer and all liquid consisting of or containing alcohol. "Liquor."

1. Inserted by Act XIII of 1951.
2. Inserted by Act V of 1920.

(10) "Beer" includes ale, stout, porter and all other fermented liquors usually made from malt.

"Country liquor."

(11) "Country liquor" means liquor manufactured in [1][the State of Mysore except Bellary District] or in any part of India, Batavia, [2][Ceylon] [3][or any other country which may be specified in the rules framed by Government from time to time in this behalf].

"Foreign liquor."

(12) "Foreign liquor" includes all liquor other than country liquor.

Provided that in any case in which doubt may arise, the Government may declare by notification what, for the purposes of this Act, shall be deemed to be "country liquor" and what "foreign liquor."

[4][(12-A) "Hemp drugs" include ganja, bhang and every preparation and admixture of the same and every intoxicating drink or substance prepared from any part of the hemp plant (*cannabis sativa or indica*)

(12-B) "Cocaine" means the principal alkoloid of *Erythroxylon coca*, having the chemical formula C-17 H-21 No.—4 and includes:—

(i) all parts of the coca plant,

(ii) all new derivatives of cocaine or of its salts which may be shown by scientific research generally recognized to be liable to similar abuse and productive of like ill-effects,

(iii) eucaine and every other preparation, synthetic or otherwise, which has a physiological effect similar to that of cocaine or which is declared by the Government to be included in the meaning of the term cocaine,

(iv) all preparations (official or non-official, including the so-called anti-opium remedies) containing cocaine or eucaine or such derivatives, salts or preparations as above.]

1. See the Mysore Adaptation of Laws Order, 1956.
2. The word "or" omitted by Act V of 1920.
3. Added by Act V of 1920.
4. Included by Act III of 1923.

(13) [1]["Intoxicating drug" includes hemp drugs, cocaine and every intoxicating drink or substance prepared from grain or from other materials and not included in the term "Liquor", but does not include opium or anything included within the meaning of that word as defined in the Indian Opium Act, 1878.] "Intoxicating drug."

(14) "Sale" or "selling" includes any transfer otherwise than by way of gift. "Sale" or "selling."

(15) "Import" means to bring into [2][the State of Mysore except Bellary District] from any place beyond the limits of [2][the State of Mysore except Bellary District.] "Import"

(16) "Export" means to take out of [2][the State of Mysore except Bellary District] to any place beyond the limits of [2][the State of Mysore except Bellary District.] "Export."

(17) "Transport" means to move from one place to another within [2][the State Mysore except Bellary District] whether the intervening area lie wholly within [2][the State of Mysore except Bellary District] or not. "Transport."

[3][(17-A) "Cultivation" includes the tending or protecting of a plant during growth and does not necessarily imply raising it from seed.]

(18) "Manufacture" includes every process, whether natural or artificial, by which any fermented, spirituous, or intoxicating liquor or intoxicating drug is produced or prepared, and also redistillation and every process for the rectification of liquor. "Manufacture."

[4][(18-A) "Bottle" means to transfer liquor from a cask or other vessel to a bottle, jar or flask or similar receptacle for the purpose of sale whether any process of manufacture be employed or not and includes to re-bottling.]

(19) "Rectification" includes every process where by spirits are purified or are coloured or flavoured by mixing any material therewith. "Rectification."

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1. Substituted for the original by Act III of 1923.
2. See the Mysore Adaptation of Laws order, 1956.
3. New sub-section (17-A) inserted by Act V of 1920.
4. Inserted by Act V of 1920.

(II—Establishment and Control)

"Place." (20) "Place" includes also a house, building, shop, tent and vessel.

[1][(21) "Police station" includes any place which the Government may, by notification, declare to be a police station for the purposes of this Act.]

II—Establishment and Control.

4. The Government may, from time to time by notification—

Government may appoint Excise Officer to control administration of Excise Department;

(*a*) appoint an officer, who shall exercise all the powers of a Deputy Commissioner in respect of the Excise revenue and who shall have the control of the administration of the Excise Department and of the collection of the Excise revenue;

may appoint special officers of Excise revenue;

(*b*) appoint any person other than the Deputy Commissioner of a district to exercise all or any of the powers and to perform all or any of the duties of a Deputy Commissioner in respect of the Excise revenue, either concurrently with or in exclusion of the Deputy Commissioner of a district, subject to such control as the Government may from time to time direct;

may withdraw excise powers from Deputy Commissioners of districts;

(*c*) withdraw from the Deputy Commissioner of a district any or all of his powers in respect of the Excise revenue;

may appoint officers to take action under sections 40 to 53;

(*d*) appoint officers to perform the acts and duties mentioned in sections 40 to 53 inclusive of this Act;

may appoint subordinate officers;

(*e*) appoint subordinate officers of such classes and with such designations, powers, and duties under this Act as the Government may think fit;

may appoint any officer or other person to act as above;

(*f*) order that all or any of the powers and duties assigned to any officers under clauses (*d*) and (*e*) of this section shall be exercised and performed by any officer or any person;

1. Added by Act V of 1920.

(III—Import, Export and Transport)

(*g*) delegate to any Excise Officer all or any of its powers under this Act. — and may delegate any of its powers to Excise Officer.

5. The Government may, from time to time, make rules — Rules for guidance of Excise Officers.

(1) prescribing the powers and duties under this Act to be exercised and performed by Excise Officers of the several classes; and

(2) regulating the delegation by the Excise Commissioner, or by Deputy Commissioners of any powers conferred by this Act or exercised in respect of Excise revenue under any Act for the time being in force.

[1] **5-A.** The Government may, by notification, and subject to such conditions as may be prescribed in such notification, empower all or any of the officers or classes of officers or persons mentioned in section 34, either by name or in virtue of their office, throughout [2][the State of Mysore except Bellary District] or in any local area, to admit a person arrested under that section to bail to appear, when summoned or otherwise directed, before an Excise Officer having jurisdiction to enquire into the offence for which such person has been arrested, and may cancel or vary such notification. — Power of Government to authorise officers to admit persons arrested to bail.

III—Import, Export and Transport.

[3] **6.** No liquor or intoxicating drug shall be imported into [2][the State of Mysore except Bellary District] except with the permission of the Deputy Commissioner who, subject to the orders of Government, may, from time to time, permit the import of liquor or intoxicating drugs, or of any kind of liquor or intoxicating drugs, on payment of the duty, if any, to which the same is liable under the Act, and on such other terms as he thinks fit, and may cancel such permission. — "Import of liquor or intoxicating drug."

7. No liquor or intoxicating drug shall be exported from [2][the State of Mysore except Bellary District] except with the permission of the Deputy Commissioner who, subject to — Export of liquor or intoxicating drug.

1. This new section 5-A after section 5 was inserted by Act V of 1906.
2. See the Mysore Adaptation of Laws Order, 1953.
3. Sections 6 and 7 were substituted for the original by Act V of 1904.

the orders of Government, may, from time to time, permit the export of liquor or intoxicating drugs or of any kind of liquor or intoxicating drugs on payment of the duty, if any, to which the same is liable under this Act, and on such other terms as he thinks fit, and may cancel such permission.

Sections 6 and 7 not to affect certain laws and powers of Government.

8. Nothing in the last two preceding sections shall be deemed to affect any law for the time being in force which empowers the Government to prohibit or restrict the importation of liquor or of intoxicating drugs or which empowers the Government to exempt any liquor or intoxicating drug from the whole or any part of the duties to which it is liable under any law for the time being in force.

Prohibition of transport of liquor.

9. The Government may, from time to time, by notification, prohibit the transport of liquor or intoxicating drugs, or of any kind of liquor or intoxicating drugs, from any local area into any other local area.

Transport of liquor or Intoxicating drug.

10. No liquor or intoxicating drug exceeding such quantity as the Government may, from time to time, prescribe by notification, either generally for the whole of [1][the State of Mysore except Bellary District] or for any local area, shall be transported except under a permit issued under the provisions of the next following section.

Provided that, in the case of foreign liquor transported for *bona fide* private consumption or for sale at any place at which the sale of such liquor is duly licensed or permitted under the provisions of this Act, such permits shall be dispensed with unless the Government shall, by notification, otherwise direct with respect to any local area.

Permits for transport.

11. Permits for the transport of liquor or intoxicating drugs may be issued by the Deputy Commissioner or by any person duly empowered in that behalf.

Such permits shall be either general for definite periods and kinds of liquor or intoxicating drugs or special for specified occasion and particular consignment only.

1. See the Mysore Adaptation of Laws Order, 1953.

(IV—Manufacture, Possession and Sale)

Every permit shall specify—

(*a*) the name of the person authorized to transport liquor or intoxicating drugs;

(*b*) the period for which the permit is to be in force;

(*c*) the quantity and description of liquor or intoxicating drugs for which it is granted;

(*d*) any other particulars which the Government may prescribe.

General permits shall be granted only to persons licensed under this Act and shall cover any quantity of liquor transported at any one time within the quantity specified in the permit.

Permit shall extend to and include servants and other persons employed by the grantees and acting on their behalf.

IV—Manufacture, Possession and Sale.

Manufacture of liquor or intoxicating drug prohibited except under provisions of this Act.

12. No liquor or intoxicating drug shall be manufactured; no hemp plant (*Cannabis Sativa* or *Indica*) [1][or coca plant (Erythroxylum coca)] shall be cultivated;

no toddy-producing tree shall be tapped;

no toddy shall be drawn from any tree;

[1][no portion of the hemp or coca plant from which any intoxicating drug can be manufactured shall be collected;]

no distillery or brewery shall be constructed or worked;

[2][no liquor shall be bottled for sale; and] no person shall use, keep, or have in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any liquor other than toddy or any intoxicating drug except under the authority and subject to the terms and conditions of a license granted by the Deputy Commissioner in that behalf, or under the provisions of section 21:

Provided that the Government, may, by notification, direct that in any local area it shall not be necessary to

1. Inserted by Act V of 1920.
2. Substituted by Act V of 1920.

take out a license for the manufacture of liquor for *bona fide* home consumption.

Licenses granted under this section shall extend to and include servants and other persons employed by the licensees and acting on their behalf.

Possession of liquor or intoxicating drugs in excess of quantity prescribed by Government prohibited.

13. No person not being a licensed manufacturer or vendor of liquor or intoxicating drugs shall have in his possession any quantity of liquor or intoxicating drugs in excess of such quantities as the Government may, from time to time, prescribe by notification, either generally [1][or specially with regard to persons, places or time] in respect of any specified description or kind of liquor or intoxicating drug unless under a license granted by the Deputy Commissioner in that behalf.

Provided that—

No fee to be charged for license for possession for private consumption.

(1) No fee shall be charged for any such license granted for the possession of such liquor or intoxicating drugs for *bona fide* private consumption or use;

Proviso as regards foreign liquor.

(2) Nothing in this section extends to any foreign liquor [2][other than denatured spirit] in the possession of any warehouseman as such, or [1][of] any person for his *bona fide* private consumption and not for sale.

Prohibition of possession of any liquor or intoxicating drug.

[3][**13-A.** Notwithstanding anything contained in section 13, the Government may, by notification in the *Mysore Gazette*, prohibit the possession by any individual or class or body of individuals or the public generally either throughout [4][the State of Mysore except Bellary District] or in any local area, of any liquor or intoxicating drug either absolutely or subject to such conditions as may be prescribed.]

Establishment of public distilleries and of warehouses.

14. The Excise Commissioner may with the previous sanction of the Government—

(*a*) establish a public distillery in which liquor or any kind of liquor may be manufactured under a license granted under section 12 on such conditions as the Government deems fit to impose;

1. Substituted by Act V of 1920.
2. Inserted by Act V of 1920.
3. Substituted by Act XIII of 1951.
4. See the Mysore Adaptation of Laws Order, 1958.

(*b*) discontinue any public distillery so established ;

(*c*) license at or in connection with any licensed distillery or elsewhere a private warehouse wherein liquor and intoxicating drugs may be deposited and kept without payment of duty ;

(*d*) establish a public warehouse wherein liquor and intoxicating drugs may be deposited and kept without payment of duty ; and

(*e*) discontinue any public warehouse so established.

Public warehouses shall be for the general accommodation of persons desiring to warehouse liquor or intoxicating drugs subject to duty pending removal for local consumption or for export.

Sale of liquor or intoxicating drug without license prohibited. Power to exempt toddy.

15. No liquor or intoxicating drug shall be sold without a license from the Deputy Commissioner, provided that a person having the right to the toddy drawn from any tree may sell the same without a license to a person licensed to manufacture or sell toddy under this Act, and a cultivator or owner of any plant from which an intoxicating drug is produced may sell without a license those portions of the plant from which the intoxicating drug is manufactured or produced to any person licensed under this Act to sell, manufacture or export intoxicating drugs [1][or to any officer whom the Excise Commissioner may generally or specially authorise.]

[2][Provided also that a license for sale in more than one district shall be granted by the Excise Commissioner].

Provided further that the Government may [3][by notification] declare that any or all of the provisions of this Act shall not apply in any local area to trees tapped, or to toddy drawn [3][under such conditions as the Excise Commissioner may prescribe].

[1][Nothing in this section applies to the sale of any foreign liquor legally procured by any person for his private use and shall by him or by auction on his behalf or on behalf of his representatives in interest upon his quitting a station or after his deccase'.

1. Inserted by Act V of 1920.
2. This new proviso was substituted for the original by Act V of 1920.
3. Substituted for the original by Act V of 1920.

(*V—Duties*)

Exclusive privileges of manufacture, etc., may be granted.

16. It shall be lawful for Government to grant to any person or persons on such conditions and for such period as may seem fit the exclusive or other privilege—

(1) of manufacturing or supplying by wholesale, or

(2) of selling by retail, or

(3) of manufacturing or supplying by wholesale and selling by retail, any country liquor or intoxicating drugs within any local area.

No grantee of any privilege under this section shall exercise the same until he has received a license in that behalf from the Deputy Commissioner.

In such cases, if the Government shall, by notification, so direct, the provisions of section 12 relating to toddy and toddy-producing trees shall not apply.

V—Duties.

Duty on liquor or intoxicating drugs.

17. A duty shall, if the Government so direct, be levied on all liquor and intoxicating drugs—

(*a*) permitted to be imported under section 6; or

(*b*) permitted to be exported under section 7; or

(*c*) manufactured under any license granted under section 12; or

(*d*) manufactured at any distillery established under section 14; or

(*e*) permitted under section 11 to be transported; or

[1][(*ee*) issued from a distillery or warehouse licensed or established under section 12 or section 14; or]

(*f*) sold in any part of [2][the State of Mysore except Bellary District];

of such amount as the Government may, from time to time, prescribe.[3]

How duty may be imposed.

18. Such duty may be levied in one or more of the following ways:—

(*a*) by duty of excise to be charged in the case of spirits or beer either on the quantity produced in or passed out of [1][a distillery, brewery or warehouse licensed or established under section 12 or

1. Substituted by Act V of 1920.
2. See the Mysore Adaptation of Laws Order, 1953.
3. The proviso to this section was omitted by Act V of 1920.

section 14] as the case may be ; or in accordance with such scale of equivalents, calculated on the quantity of materials used or by the degree of attenuation of the wash or wort, as the case may be, as the Government may prescribe ;

(*b*) in the case of intoxicating drugs, by a duty to be rateably charged on the quantity produced or manufactured or sold by wholesale [1][or issued from a warehouse licensed or established under section 14 ;]

(*c*) by payment of a sum in consideration of the grant of any exclusive or other privilege—

(1) of manufacturing or supplying by wholesale, or

(2) of selling by retail, or

(3) of manufacturing or supplying by wholesale and selling by retail any country liquor or intoxicating drug in any local area and for any specified period of time ;

(*d*) by fees on licenses for manufacture or sale ;

(*e*) in the case of toddy, or spirits manufactured from toddy, by a tax on each tree from which toddy is drawn, to be paid in such instalments and for such period as the Government may direct ; or

(*f*) by [2][import, export or] transport-duties assessed in such manner as the Government may direct.

[1][Provided that when there is a difference of duty as between two license periods such difference may be collected in respect of all stocks of country liquor or intoxicating drugs held by licensees at the close of the former period.]

Tax for tapping trees, from whom leviable.

19. When duty is levied by way of tax on toddy trees under section 18, the Government may by notification direct that the license required under section 12 shall be granted only on the production by the person applying for it of the written consent of the owner, or person in possession, of such trees to the license being granted to such person so applying for it ; and when such notification has been issued, such tax shall, in default of payment by

1. Added by Act V of 1920.
2. Inserted by Act V of 1920.

the licensee, be recoverable from the owner or other person in possession who has so consented.

When, in like case, trees are tapped without license, the tax due shall be recoverable primarily from the tapper or in default by him from the occupier, if any, of the land, or if the trees do not belong to the occupier of the land, or if the land is not occupied, from the person, if any, who owns or is in possession of the trees, unless he proves that the trees were tapped without his consent.

Duties may be farmed.

20. All or any of the duties leviable under this Act in any local area may, with the sanction of the Government, be farmed, subject to such payment and on such other conditions as the Government shall prescribe. Farmers of duties under this section shall take out licenses as such from the Deputy Commissioner.

Toddy farmer may grant license.

21. When the exclusive privilege of manufacturing toddy has been granted under section 16, the Government may declare that the written permission of the grantee to draw toddy shall have, within the area to which the privilege extends, the same force and effect as a license from the Deputy Commissioner for that purpose under section 12.

Farmer may let or assign.

22. In the absence of any contract or condition to the contrary, any grantee of any exclusive or other privilege may let or assign the whole or any portion of his privilege or farm. But no such lessee or assignee shall exercise any rights as such unless and until the grantee or farmer, as the case may be, shall have applied to the Deputy Commissioner for a license to be given to such lessee or assignee, shall have received the same.

Recovery by farmer of rents due to him.

23. It shall be lawful for any such grantee, farmer, lessee or assignee, as aforesaid to proceed against any person holding under him for the recovery of any money due to him as if it were an arrear of rent recoverable under the law for the time being in force with regard to landholder and tenant :

Provided that nothing contained in this section shall affect the right of any such grantee, farmer, lessee or assignee, to recover by civil suit any such amount due to him from any such person as aforesaid.

(VI Licenses, Etc.)

VI—LICENSES, ETC.

Form and conditions of licenses, etc.

24. Every license or permit granted under this Act shall be granted—

(*a*) on payment of such fees, if any;

(*b*) for such period;

(*c*) subject to such restrictions and on such conditions; and

(*d*) shall be in such form and contain such particulars, as the Government may direct either generally, or in any particular instance in this behalf.

Counterpart agreement to be executed by licenses.

25. Every person taking out a license under this Act may be required to execute a counterpart agreement in conformity with the tenor of his license, and to give such security for the performance of his agreement as the Deputy Commissioner may require.

Power to recall license, etc.

26. The Deputy Commissioner may cancel or suspend any license or permit granted under this Act—

(*a*) if any fee or duty payable by the holder thereof be not duly paid; or

(*b*) in the event of any breach by the holder of such license or permit, or by his servants, or by any one acting with his express or implied permission on his behalf, of any of the terms or the conditions of such license or permit; or

(*c*) if the holder thereof is convicted of any offence against this Act or any other law for the time being in force relating to Excise revenue, or of any cognizable and non-bailable offence; or [1][of any offence under the Merchandise Marks Act, 1892 or under sections 478 and 489 I.P.C. 1860;]

(*d*) where a license or permit has been granted on the application of the holder of an exclusive or other privilege or of a farmer of duties under this Act on the requisition in writing of such person; or

(*e*) if the conditions of the license or permit provide for such cancelment or suspension, at will.

1. Inserted by Act V of 1920.

(VII—General Provisions)

VII.—General Provisions.

Certain licenses required to keep instruments for testing, etc.

[1][**27.** Every person who manufactures or sells any liquor or intoxicating drugs under a license granted under this Act shall be bound—

(*a*) to supply himself with such measures, weights and instruments as Government may prescribe and to keep the same in good condition ; and

(*b*) on the requisition of any Excise Officer duly empowered in that behalf at any time to measure or weigh any liquor or intoxicating drug or test any liquor in his possession in such manner as the said Excise Officer may require].

Recovery of duties, etc.

28. All duties, taxes, fines and fees payable to the Government direct under any of the provisions of this Act or of any license or permit issued under it, and all amounts due to the Government by any grantee of a privilege or by any farmer under this Act or by any person on account of any contract relating to the Excise revenue, may be recovered from the person primarily liable to pay the same, or from his surety (if any), as if they were arrears of land revenue, and in the case of default made by a grantee of a privilege or by a farmer, the Deputy Commissioner may take the grant or farm under management at the risk of the defaulter or may declare the grant of farm forfeited and re-sell it at the risk and loss of the defaulter. When a grant or farm is under management under this section, the Deputy Commissioner may recover any moneys due to the defaulter by any lessee or assignee as if they were arrears of land revenue.

Power to frame rules.

[1][**29.** (1) Government may make rules for the purpose of carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, Government may make rules,—

(*a*) regulating the mode in which toddy may be supplied to licensed vendors of the same or to persons who distil spirits from it, or who use it in the manufacture of bread or jaggery ;

(*b*) for determining the number of licenses of each description to be granted in any district or place ;

1. Substituted by Act V of 1920.

(VII—General Provisions)

(*c*) for regulating the number, size and description of stills, utensils, implements and apparatus to be used in any distillery;

(*d*) prescribing the instruments to be used in the testing of liquor and the tables of corrections according to temperature to be used therewith;

(*e*) prescribing the measures to be used for the sale of country liquor and the scales and weights to be used for the sale of intoxicating drugs;

(*f*) fixing for any local area the minimum price below which any country liquor shall not be sold or the retail price of any such liquor and the wholesale and retail prices of intoxicating drugs;

(*g*) defining when liquor or drugs or any kind of liquor or drugs shall be deemed to be sold retail or wholesale;

(*h*) for the warehousing of liquor and intoxicating drugs and for the removal of the same from any warehouse in which they are deposited for deposit in any other warehouse or for local consumption or for export;

(*i*) for the inspection and supervision of stills, distilleries, private warehouses and breweries;

(*j*) for the management of any public distillery or public warehouse established under section 14;

(*k*) for regulating the cultivation of hemp and coca plants checking their spontaneous growth, the collection of those portions of such plants from which intoxicating drugs can be manufactured and manufacture of such drugs therefrom and providing, where necessary, for the extirpation from private holdings or Government lands, of such plants;

(*l*) for placing the preparation of intoxicating drugs and the storage, import, export, possession or transport of liquor or intoxicating drugs under such supervision and control as may be deemed necessary for the purpose of this Act;

(*m*) prohibiting the use of any article which the Government shall deem to be noxious or otherwise objectionable in the manufacture of liquor or of any intoxicating drug;

(*n*) for grant of batta to witnesses and of compensation for loss of time to persons released by any Excise Officer under section 40 (3) of this Act on the ground that they have been improperly arrested and to persons charged before a Magistrate with offences under this Act and acquitted;

(*o*) declaring the process by which spirit manufactured in or imported into the State shall be denatured;

(*p*) for causing such spirit to be denatured through the agency or under the supervision of the Excise officers;

(*q*) for ascertaining whether such spirit has been denatured;

(*r*) regulating the power of Excise officers to summon witnesses from a distance under section 44;

(*s*) regulating the bottling of liquor for purposes of sale;

(*t*) for the disposal of articles confiscated and of the proceeds thereof;

(*u*) declaring in what cases or classes of cases and to what authorities appeals shall lie from orders, whether original or appellate, passed under this Act or under any rule made thereunder, or by what authorities such orders may be revised and prescribing the time and manner of presenting appeals, and the procedure for dealing therewith.]

VIII.—Powers and Duties of Officers, etc.

Magistrate may issue search warrant on application.

30. If any Magistrate upon information given by any Excise or Police officer or any other person, and after such inquiry as he thinks necessary, has reason to believe that an offence under section 55 or section 57 or section 58 of this Act has been committed, he may issue a warrant for the search for any liquor, intoxicating drug, materials, still, utensil, implement or apparatus in respect of which the alleged offence has been committed.

Before issuing such warrant, the Magistrate shall examine the informant on oath or affirmation, and the examination shall be reduced into writing in a summary manner and be signed by the informant, and also by the Magistrate.

(*VIII—Powers and Duties of Officers, etc.*)

Power to certain Excise and Police officers to search houses, etc., without warrant.

31. Whenever the Excise Commissioner, or a Deputy Commissioner, or [1][any Police officer not below the rank of an officer in charge of a police station or any Excise officer of a rank not below that to be specified from time to time by Government by a notification in the *Official Gazette*] has reason to believe that an offence under section 55 or section 58 of this Act has been committed and that the delay occasioned by obtaining a search warrant under the preceding section will prevent the execution thereof, he may, after recording his reasons and the grounds of his belief, at any time by day or night enter and search any place and may seize anything found therein which he has reason to believe to be liable to confiscation under this Act; and may detain and search and, if he think proper arrest any person found in such place whom he has reason to believe to be guilty of any offence under this Act:

Provided that every person arrested under this section shall be admitted to bail by such officer as aforesaid if sufficient bail be tendered for his appearance either before a Magistrate or before an Excise Inspector as the case may be.

Power to enter and inspect places of manufacture and sale.

32. The Excise Commissioner, or a Deputy Commissioner or any Excise officer not below the rank of Sub-Inspector, or any Police officer duly empowered in that behalf, may enter and inspect, at any time by day or by night, any place in which any licensed manufacturer carries on the manufacture of any liquor or intoxicating drug, or draws toddy, or stores any liquor or intoxicating drug or toddy; and may enter and inspect, at any time during which the same may be open, any place in which any liquor or intoxicating drug is kept for sale by any licensed person; and may examine, test, measure or weigh any materials, stills, utensils, implements, apparatus, liquor, or intoxicating drugs found in such place.

In case of resistance, entry may be made by force, etc.

33. If any officer empowered to make an entry under the provisions of the last two preceding sections cannot otherwise make such entry, it shall be lawful for him to break open any outer or inner door or window and to remove any other obstacle to his entry into any such place.

1. Substituted by Act V of 1920.

(VIII—Powers and Duties of Officers, etc.)

Offenders may be arrested, and contraband liquor and articles seized without warrant.

34. Any officer of the Excise, Police, Forest, Land Revenue, Sayer or Octroi Departments, and any other person duly empowered, may arrest without warrant in any public thoroughfare or open place other than a dwelling house any person found committing an offence punishable under section 55 or section 57 or section 58 of this Act; and in any such thoroughfare or place may seize and detain any liquor, drug or other article which he has reason to believe to be liable to confiscation under this Act or any other such law; and may search any person, vessel, vehicle, animal, package, receptacle or covering, upon whom, or in or upon which, he may have reasonable cause to suspect any such liquor, drug or other such article to be, or to be cancelled.

Procedure in case of person arresting not being empowered under section 5-A.

[1][Provided that if the officer or person making the arrest under this section be not empowered under section 5-A to admit to bail, the person arrested shall be forthwith forwarded to an officer so empowered if there be such an officer within a distance of five miles from the place where such arrest took place.

And it shall be the duty of such officer empowered as aforesaid to admit such person to bail if sufficient bail be tendered for his appearance before an Excise Officer having jurisdiction to enquire into the case.]

Arrest of persons refusing to give name or giving false name.

35. Any person, who may be accused or reasonably suspected of committing an offence under this Act and who on demand of any officer of the Excise, Police, Forest, Land Revenue, Sayer or Octroi Departments or of any other person duly empowered, refuses to give his name and residence, or who gives a name or residence which such officer or person has reason to believe to be false, may be arrested by such officer or person in order that his name and residence may be ascertained.

Searches how to be made.

36. All searches under the provisions of this Act shall be made in accordance with the provisions of the Code of Criminal Procedure.

1. Proviso added by Act V of 1906.

(VIII—Powers and Duties of Officers, etc.)

Officers of certain Departments bound to assist.

37. All officers of the Departments of Police, Forest, Land Revenue, Sayer and Octroi shall be legally bound to assist any Excise officer in carrying out the provisions of this Act.

Offences to be reported, etc.

38. Every officer employed by the Government, other than an Excise officer, shall be bound to give immediate information to an Excise officer, and every Excise officer shall be bound to give immediate information either to his immediate official superior or to an Excise Inspector, of all breaches of any of the provisions of this Act which may come to his knowledge; and all such officers shall be bound to take all reasonable measures in their power to prevent the commission of any such breaches which they may know or have reason to believe or about or likely to be committed.

Landholders and others to give information.

39. All inamdars, kayamguttadars, proprietors, tenants, under-tenants and cultivators who own or hold land on which there shall be any manufacture of liquor or intoxicating drugs not licensed under this Act shall, in the absence of reasonable excuse be bound to give notice of the same to a Magistrate or to an officer of the Excise, Police, Forest, Land Revenue, Sayer or Octroi Departments immediately the same shall have come to their knowledge.

Persons arrested how to be dealt with.

40. (1) When any person is arrested under the provisions of section 31 or section 34 or section 35 of this Act the person arresting him shall, unless bail shall have been accepted under the provisions of section 31 [1][or of section 34] forthwith forward him to an Excise Inspector, or, if there be no such officer within a distance of ten miles from the place at which such arrest took place, to the nearest Police station, with a report of the circumstances under which such arrest was made.

Procedure by Police Station officer.

(2) On any such person being brought to a Police station as aforesaid, the officer in charge thereof shall either admit him to bail to appear when summoned before the Excise officer as aforesaid within the limits of whose jurisdiction the offence with which he is charged is suspected to have been committed, or, in default of bail, shall forward him in custody to such officer.

1. Inserted by Act V of 1906.

Procedure by Excise officer empowered to inquire.

(3) On any such person being brought in custody before such Excise officer as aforesaid or appearing before him on bail, [1][or when such Excise officer as aforesaid has himself made the arrest] such officer shall hold such inquiry as he may think necessary and shall either release such person, or forward him in custody to, or admit him to bail to appear before the Magistrate having jurisdiction to try the case.

Power of Excise officer to admit persons to bail to appear before himself or other officer having jurisdiction.

[1][Provided that if such enquiry is not commenced and completed on the day on which such person is arrested by or is brought or appears before such Excise officer, the said officer shall, if sufficient bail be tendered for the appearance of the perron arrested, admit the said person to bail to appear on any subsequent day before himself or any other Excise officer having jurisdiction to enquire into the case.]

Persons arrested to be admitted to bail.

41. It shall be the duty of any officer arresting any person under the powers given by section 31 of this Act and of any Police station officer or Excise officer before whom a person arrested is brought or appears under the provisions of section 40, to release such person on bail if sufficient bail be tendered for his appearance before an Excise Inspector or before a Magistrate as the case may be.

Bond of accused and sureties.

42. Before any person is released on bail, a bond in such sufficient but not excessive sum of money as the officer admitting him to bail thinks proper shall be executed by such person and by one or more sureties, conditioned that such person shall attend in accordance with the terms of the bond and shall continue to attend until otherwise directed by the Excise Inspector before whom he was bailed to attend, or by the Magistrate, as the case may be.

Provided that the officer admitting any such person to bail may at his discretion dispense with the requirement of a surety or sureties to the bond executed by such person.

The Government shall from time to time determine the form of the bond to be used in any local area.

1. Inserted by Act V of 1906.

(VIII—Powers and Duties of Officers, etc.)

Procedure in case of default of person admitted to bail to appear before Excise Inspector.

43. When by reason of default of appearance of a person bailed to appear before an Excise Inspector, such officer is of opinion that proceedings should be had to compel payment of the penalty or penalties mentioned in the bond of the person bailed or of the surety or sureties, he shall forward the bond to the Magistrate having jurisdiction to try the offence of which the person bailed was accused, and the Magistrate shall proceed to compel payment of the penalty or penalties in the manner provided by the Code of Criminal Procedure for the recovery of penalties in the like case of default of appearance by a person bailed to appear before his own Court.

Excise officers may summon witnesses.

44. Any Excise officer holding an inquiry in the manner provided in section 40 may summon any person to appear before himself to give evidence on such inquiry or to produce any document relevant thereto which may be in his possession or under his control.

Provided that no such Excise officer shall summon any person to appear at a greater distance from the usual place of residence of such person than the Government may from time to time by rule direct.

Terms of summons.

45. Every summons issued under the last preceding section shall state whether the person summoned is required to give evidence or to produce a document, or both and shall require him to appear before the said officer at a stated time and place.

Examination of witnesses by Excise Inspectors.

46. Persons so summoned shall attend as required and shall answer all questions relating to such inquiry put to them by such officer. Such answers shall be reduced into writing and shall be signed by such officer.

When attendance of witnesses to be dispensed with and procedure in such cases.

47. It shall be lawful for an Excise Inspector, instead of summoning to appear before him any person who, from sickness or other infirmity, may be unable so to do, or, whom by reason of rank or sex it may not be proper to summon, to proceed to the residence of such person and there to require him to answer such questions as he may consider necessary with respect to such inquiry; and such person shall be bound so to answer accordingly, and the provisions of section 46 shall apply to such answers.

(VIII—Powers and Duties of Officers, etc.)

Excise Inspector may summon persons suspected of offences against Excise laws.

48. Any Excise Inspector may, after recording his reasons in writing, summon any person to appear before him whom he has good reason to suspect of having committed an offence under this Act. On such person appearing before such officer, the procedure prescribed by sections 40 to 47 inclusive of the Act shall become applicable. [1][The officer may also, if he considers it necessary for the investigation of the case, exercise the powers conferred by sections 44 to 47 before summoning the person suspected.]

Law relating to Criminal Courts as to summoning of witnesses to apply.

49. The law for the time being in force as to summonses and compelling the attendance of persons summoned in Criminal Courts shall, so far as the same may be applicable apply to any summons issued by an Excise Inspector and to any person summoned by him to appear under the provisions of this Act.

Report of Excise Inspector gives jurisdiction to competent Magistrate.

50. When an Excise Inspector forwards in custody any person accused of an offence under this Act to the Magistrate having jurisdiction to try the case, or admits any such person to bail to appear before such Magistrate, such officer shall also forward to such Magistrate a report setting forth the name of the accused person and the nature of the offence with which he is charged and the names of the persons who appear to be acquainted with the circumstances of the case, and shall send to such Magistrate any article which it may be necessary to produce before him. Upon receipt of such report the Magistrate shall inquire into such offence and try the person accused thereof in like manner as if complaint had been made before him as prescribed in the Code of Criminal Procedure.

Powers of Excise Inspector to cause attendance of witnesses before Magistrate.

51. When an Excise Inspector forwards in custody any person accused of an offence under this Act to the Magistrate having jurisdiction to try the case, or admits him to bail to appear before such Magistrate, such officer shall exercise all the powers conferred by the Code of Criminal procedure on an officer in charge of a Police Station in respect to causing the appearance before such Magistrate of such persons acquainted with the facts and circumstances of the case as he considers it necessary that

1. Inserted by Act V of 1920.

such Magistrate shall examine as witnesses for the prosecution of such case.

Accused not to be detained in custody for longer period than twenty-four hours without special authority.

52. No person accused or suspected of having committed an offence under this Act shall be detained for a longer period than under all the circumstances of the case is reasonable; and such period shall not, in the absence of the special order of a Magistrate, whether having jurisdiction to try the case or not exceed twenty-four hours, exclusive of the time necessary for the journey of such person to the place where an Excise Inspector may be, and from thence to the Court having jurisdiction to try the case.

Police to take charge of articles seized.

53. All officers in charge of Police Stations shall take charge of and keep in safe custody pending the orders of a Magistrate or of an Excise Inspector all articles seized under this Act which may be delivered to them; and shall allow any Excise Officer who may accompany such articles to the Police Station, or who may be deputed for the purpose by his superior officer, to affix his seal to such articles and to take samples of and from them. All samples so taken shall also be sealed with the seal of the officer in charge of the Police Station.

Closing of shop for the sake of public peace.

54. It shall be lawful for the Magistrate of the district by notice in writing to the licensee to require that any shop in which liquor or any intoxicating drug is sold shall be closed at such times or for such period as he may think necessary for the preservation of the public peace.

If a riot or unlawful assembly is apprehended or occurs in the vicinity of any such shop, it shall be lawful for any Magistrate, or for any Police Officer who is present, to require such shop to be kept closed for such period as may be necessary.

IX.—Penalties.

For illegal import, etc.

55. Whoever, in contravention of this Act, or of any rule or order made under this Act, or of any license or permit obtained under this Act—

(*a*) imports, exports, transports or possesses liquor or any intoxicating drug; or

(*b*) manufactures liquor or any intoxicating drug; or

[1][(*c*) cultivates, or fails to take the measures prescribed for checking the spontaneous growth or for the extirpation of, the hemp plant (*cannabis sativa* or *Indica*)] [2][or the Coca plant (*Erythroxylum coca*) or collects any portion of such plants from which an intoxicating drug can be manufactured; or]

(*d*) taps any toddy-producing tree; or

(*e*) draws toddy from any tree; or

(*f*) constructs or works any distillery or brewery; or

(*g*) uses, keeps, or has in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing liquor other than toddy or any intoxicating drug; or

[3][(*gg*) bottles any liquor for purposes of sale; or]

(*h*) sells liquor or any intoxicating drug;

shall, on conviction before a Magistrate, be punished for each such offence with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

Provided that where the offence relates to the import or manufacture of liquor or any intoxicating drug, the fine, if any, inflicted shall not be less than double the amount of duty leviable on such liquor or intoxicating drug.

For rendering or attempting to render denatured spirit fit for human consumption.

[2][**55**-A. Whoever renders or attempts to render fit for human consumption any spirit whether manufactured in [4][the State of Mysore except Bellary District] or not, which has been denatured, or has in his possession any spirit in respect of which he knows or has reason to believe that any such attempt has been made, shall, on conviction before a Magistrate, be liable to imprisonment for a term which may extend to three months or to fine which may extend to one thousand rupees or both. For the purpose of this section, it shall be presumed unless and until the contrary is proved that any spirit which is proved on chemical analysis to contain any quantity of any of the prescribed denaturants is or contains or has been derived from denatured spirit.]

1. Substituted by Act IV of 1902.
2. Added by Act V of 1920.
3. Inserted by Act V of 1920.
4. See the Mysore Adaptation of Laws Order, 1953.

(*IX—Penalties*)

For misconduct by licensee, etc.

56. Whoever, being the holder of a license or permit granted under this Act [1][or being in the employ of such holder and acting on his behalf]

(*a*) fails to produce such license or permit on the demand of any Excise Officer or of any other officer duly empowered to make such demand ; or

(*b*) [1][wilfully does, or omits to do anything] in breach of any of the conditions of his license or permit not otherwise provided for in this Act ; or

(*c*) wilfully contravenes any rule made under section 29 of this Act ; or

(*d*) permits drunkenness, riot or gaming in any place in which any liquor or intoxicating drug is sold or manufactured ; or

(*e*) permits persons of notoriously bad character to meet or remain in any such place ;

shall, on conviction before a Magistrate, be punished for each such offence with fine which may extend to two hundred rupees, or with imprisonment which may extend to three months, or with both.

For adulteration, etc., by licensed vendor or manufacturer

57. Whoever, being the holder of a license for the sale or manufacture of liquor or of any intoxicating drug under this Act [2][or a person in the employ of such holder] :—

(*a*) mixes or permits to be mixed with the liquor or intoxicating drug sold or manufactured by him any noxious drug or any foreign ingredient likely to add to its actual or apparent intoxicating quality or strength, or any article prohibited by any rule made under section 29, clause (*k*), when such admixture shall not amount to the offence of adulteration under section 272 of the Indian Penal Code ; or

(*b*) sells or keeps or exposes for sale as foreign liquor, liquor which he knows or has reason to believe to be country liquor ; or

(*c*) marks the cork of any bottle or any bottle, case, package or other receptacle containing country liquor, or uses any bottle, case, package or other receptacle containing country liquor,

1. Substituted by Act V of 1920.
2. Inserted by Act VIII of 1918.

with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, when such act shall not amount to the offence of using a false trade-mark with intent to deceive or injure any person under section 482 of the Indian Penal Code ; or

(*d*) sells or keeps or exposes for sale any country liquor in a bottle, case, package or other receptacle with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other receptacle contains foreign liquor, when such act shall not amount to the offence of selling goods marked with a counterfeit trade-mark under section 486 of the Indian Penal Code ;

shall, on conviction before a Magistrate, be punished for each such offence with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both.

For possession of illicit liquor or drug.

58. Whoever without lawful authority has in his possession any quantity of liquor or of any intoxicating drug knowing the same to have been unlawfully imported, transported or manufactured, or knowing the prescribed duty not to have been paid therefor, shall, on conviction before a Magistrate, be punished with fine which may extend to one thousand rupees, or with imprisonment for a term which may extend to six months, or with both.

Provided that the fine, if any, inflicted shall not be less than double the amount of duty leviable on such liquor or drug.

For vexatious search or arrest.

59. Any Excise Officer or other person who, without reasonable ground of suspicion, enters or searches, or causes to be searched, any closed place ;

or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for anything liable to confiscation under this Act ;

or vexatiously and unnecessarily detains, searches, or arrests any person ;

or in any other way vexatiously exceeds his lawful powers ;

shall, on conviction before a Magistrate, be punished for each such offence with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

For vexatious delay.

60. Any officer or person exercising powers under this Act who vexatiously and unnecessarily delays forwarding to an Excise Inspector or to the officer in charge of the nearest Police Station, as required by section 40 of this Act, any person arrested, or any articles seized under this Act, shall, on conviction before a Magistrate, be punished with fine which may extend to two hundred rupees.

For abetment of escape of persons arrested, etc.

61. Any officer or person who unlawfully releases or abets the escape of any person arrested under this Act, or abets the commission of any offence against this Act, or acts in any manner inconsistent with his duty for the purpose of enabling any person to do anything whereby any of the provisions of this Act may be evaded or broken, or the Excise revenue may be defrauded;

and any officer of any other Department referred to in section 37, who abets the commission of any offence against this Act, in any place,

shall, on conviction before a Magistrate, for every such offence, be punished with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to six months, or with both.

62. [1][* * *]

For offences not otherwise provided for.

63. Whoever is guilty of any act or intentional omission in contravention of any of the provisions of this Act, or of any rule or order made under this Act, and not otherwise provided for in this Act, shall, on conviction before a Magistrate, be punished for each such act or omission with fine which may extend to two hundred rupees

Presumption as to commission of offence in certain cases.

64. In prosecutions under section 55, it shall be presumed until the contrary is proved, that the accused person has committed an offence under that section in respect of any liquor or intoxicating drug, or any still, utensil, implement, or apparatus whatsoever for the manufacture of liquor other than toddy or of any intoxicating drug or any such materials as are ordinarily used in

1. Section 62 omitted by Act V of 1920.

the manufacture of liquor or of any intoxicating drug, for the possession of which he is unable to account satisfactorily ; [1][or, as the case may be, in respect of any hemp plant found growing upon land in his possession or under his charge, and for the existence of which thereon he is unable to account satisfactorily ;]

and the holder of a license or permit under this Act shall be punishable, as well as the actual offender, for any offence committed by any person in his employ and acting on his behalf under section 55 or section 56 or section 57 or section 58, as if he had himself committed the same, unless he shall establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence :

Provided that no person other than the actual offender shall be punished with imprisonment except in default of payment of fine.

What things liable to confiscation.

65. In any case in which an offence has been committed under this Act, the liquor, drug, materials, still, utensil, implement, or apparatus in respect of [2]or by means of] which an offence has been committed, shall be liable to confiscation.

Any liquor or intoxicating drug lawfully imported, exported, transported, manufactured, had in possession or sold, or toddy lawfully drawn or tapped along with, or in addition to, any liquor, intoxicating drug or toddy, liable to confiscation under this section, and

the receptacles, packages and coverings in which any such liquor, intoxicating drug, materials, still, utensil, implement, or apparatus as aforesaid is or are found, and the other contents, if any, of the receptacles or packages in which the same is or are found, and the animals, carts, vessels, or other conveyances used in carrying the same, shall likewise be liable to confiscation.

Confiscation how ordered.

66. When the offender is convicted or when the person charged with an offence under this Act is acquitted, but the Magistrate decides that anything is liable to confiscation, such confiscation may be ordered by the Magistrate.

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1. Added by Act IV of 1902.
2. Inserted by Act V of 1920.

(*IX—Penalties*)

Whenever confiscation is authorized by this Act, the Magistrate ordering it may give the owner of the thing liable to be confiscated an option to pay, in lieu of confiscation, such fine as the officer thinks fit.

When an offence under this Act has been committed, but the offender is not known or cannot be found, or when anything liable to confiscation under this Act and not in the possession of any person cannot be satisfactorily accounted for, the case shall be inquired into and determined by the Excise Commissioner, or by any other officer authorized by the Government in that behalf, who may order such confiscation :

Provided that no such order shall be made until the expiration of one month from the date of seizing the things intended to be confiscated or without hearing the persons, if any, claiming any right thereto and evidence, if any, which they produce in support of their claims.

[1][Provided further that if the thing in question is liable to speedy and natural decay or if the Excise Commissioner or any other officer authorised by Government in that behalf is of opinion that the sale would be for the benefit of its owner, he may at any time direct it to be sold, and the provisions of this section shall, as nearly as may be practicable, apply to the net proceeds of such sale.]

Power to compound offences.

67. Any Excise officer specially empowered in that behalf may accept from any person whose license or permit is liable to be cancelled or suspended under clauses (*a*) and (*b*) of section 26 or who is reasonably suspected of having committed an offence under [1][section 55 or section 56 or section 57 or section 58] or section 63, a sum of money not exceeding two hundred rupees in lieu of such cancelment or suspension or by way of compensation for the offence which may have been committed, as the case may be; and in all cases whatsoever in which any property has been seized as liable to confiscation under this Act, may release the same on payment of the value thereof as estimated by such officer.

On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the accused person, if in custody, shall be discharged, the property

1. Substituted by Act V of 1920.

seized shall be released, and no further proceedings shall be taken against such person or property.

Provisions of the Criminal Procedure and Indian Penal Codes applicable to offences committed under this Act.

68. The provisions of the Criminal Procedure Code relating to execution so far as the same are applicable, and sections 67, 68 and 69 of the Indian Penal Code shall apply to all offences committed and to all persons punished under the provisions of this Act.

Excise Advisory Committees.

[1][**68A**—Any Local Authority empowered by Government in this behalf may appoint Excise Advisory Committees in accordance with rules prescribed by Government for the purpose. The rights and duties of such Excise Advisory Committees, under this Act, shall be such as may be provided for by rules made in this behalf by Government from time to time and published in the *Official Gazette*.]

X—Miscellaneous.

Publication of Rules and Notifications.

69. All rules made and notifications issued under this Act shall be made and issued by publication in the *Official Gazette*, provided that all such rules and notifications whereby the doing or the not doing of anything is made punishable shall be published in three successive issues of the *Official Gazette*. All such rules and notifications shall thereupon have the force of law and be read as part of this Act, and may, in like manner, be varied, suspended or annulled.

Conferring of powers and making of appointments.

70. All notifications and orders conferring powers, imposing duties and making appointments under this Act may respectively refer to the persons concerned specially by name or in virtue of their office or to classes of officials generally by their official titles ; and all Courts shall take judicial notice thereof.

Exception of medicated articles.

[2][**71.** Government may by notification, either wholly or partially, subject to such conditions as it may think fit to prescribe, exempt any liquor or intoxicating

1. Added by Act V of 1920.
2. Substituted by Act V of 1920.

drug from all or any of the provisions of this Act, either throughout the State or in any specified area or for any specified period or occasion or as regards any specified class or persons.]

Bar of actions.

72. No action shall lie against any Excise Officer, for damages in any Civil Court for any act *bona fide* done or ordered to be done in pursuance of this Act, or of any law for the time being in force relating to Excise revenue;

and all prosecutions of any Excise Officer, and all actions which may be lawfully brought against any Excise officer, in respect of anything done, or alleged to have been done in pursuance of this Act, shall be instituted within six months from the date of the act complained of and not afterwards.

In such action, if for damages, it shall be lawful for the Court, if tender of sufficient amends shall have been made before the action was brought, in awarding the amount so tendered, to refuse costs to the plaintiff and direct him to pay the costs of the defendant.

MYSORE ACT No. I OF 1902.

[1]THE KAVERI ELECTRIC POWER LINE (PROTECTION) ACT, 1902.

(PASSED ON THE 5TH DAY OF JUNE 1902.)

An Act for the prevention of wrongful damage to the Kaveri Electric Power Transmission Line.

Preamble.

WHEREAS it is expedient to provide for the prevention of wrongful damage to the Kaveri Electric Power Transmission Line; Her Highness the Maharani-Regent is pleased to enact as follows :—

Extent and Commencement.

1. This Act shall apply to the [2][whole of the State of Mysore except Bellary District]; and it shall come into force at once.

Power to employ additional police in places where mischief is repeatedly committed to the transmission line.

2. (1) Whenever it appears to the Government that any act, causing or likely to cause wrongful damage to, or in any way interfere with, any part of the line for the transmission, conveyance or distribution of electric power from the Kaveri Power Works at Sivasamudram, or any apparatus or appliances, or part or parts thereof, connected therewith, is repeatedly and maliciously or wantonly committed in any place, and that the employment of an additional police force in that place is thereby rendered necessary, the Government may send such additional police force as it thinks fit to the place, and employ the same therein so long as, in the opinion of Government, the necessity of doing so continues.

Cost of such additional police force.

(2) The inhabitants of the place shall be charged with the cost of such additional police force, and the District Magistrate shall, subject to the orders of Government, assess the proportion in which the cost shall be paid by the inhabitants according to his judgment of their respective means.

Mode of collecting moneys.

(3) All moneys payable under sub-section (2) shall be recoverable under the warrant of a Magistrate by distress and sale of the moveable property of the defaulter, within the local limits of his jurisdiction.

Government may define limi s of place for purposes of this section.

(4) The Government may, by order in writing, define the limits of any place for the purposes of this section.

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1. See Mysore Act, VIII of 1949.
2. See the Mysore Adaptation of Laws order, 1956.

MYSORE ACT No. III OF 1902.

THE MYSORE WEIGHTS AND MEASURES ACT, 1902.

(As amended by Acts IX of 1927 and XLIX of 1943.)

(PASSED ON THE 8TH DAY OF JULY, 1902).

WHEREAS it is expedient to regulate the use of Weights and Measures of Capacity in Mysore; Preamble.

Her Highness the Maharani-Regent is pleased to enact as follows:—

1. This Act may be called the "Mysore Weights and Measures Act, 1902;" it extends to the whole of Mysore; and it shall come into force at once. Title, extent and operation.

[1]**2.** (1) The Government may, from time to time by notification in the Official Gazette, prescribe either generally for Mysore or for any specified part thereof, the standards of weights and measure of capacity that shall be followed therein. Standards of weight and measure of capacity.

(2) Copies of standards prescribed as aforesaid shall be kept in the Office of the Inspector-General of Police, in the Offices of the Deputy Commissioners of Districts and in such other offices as may, from time to time, be prescribed by the Government and shall at all reasonable times be available for public inspection.

3. [2](1) The Government may, by notification in the Official Gazette, direct that, after a date to be fixed therein, only certified weights or measures of capacity or both shall be used in all dealings and contracts in any specified area and may in like manner alter or revoke such direction: Use of certified weights and measures of capacity.

Provided that such direction shall not apply to dealings and contracts effected otherwise than by weight or measure of capacity and those based on the British, the Metric, the Indian Railway or any other system of weight or measure of capacity for the exclusion of which provision is made in the rules.

[3](2) A weight or measure of capacity shall be certified only when it has been manufactured by the Government or by a manufacturer duly licensed under this Act.]

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1. Sections 2, 3 and 3-A sub titut-d by Act IX of 1927.
2. Section 3 renumbered as sub-section (1) of that section by Act XLIX of 1943.
3. Inserted by Act XLIX of 1943.

Rules.

3-A. The Government may make rules to regulate the following matters :—

(*a*) the shapes, dimensions and designations of all or any of the weights and measures of capacity that may be permitted to be used and the materials of which the same shall be made;

(*b*) the method of testing weights and measures of capacity and of certifying to their correctness by means of stamping or otherwise and the fees to be levied therefor;

[1](*c*) the charges, terms and conditions, subject to which licenses may be granted to manufacturers of weights and measures of capacity;

(*d*) the agency to be employed, the powers and duties of such agency and generally any other matters connected with the carrying out of the purposes of this Act.

What are false weights and measures.

4. Any weight or measure of capacity, which is not in accordance with a copy of the standard of weight or measure of capacity kept under [2][section 2 (2)] shall be deemed to be a false weight or measure of capacity within the meaning of Chapter XIII of the Indian Penal Code.

Penalty for use of uncertified weight or measure of capacity.

[3][**5.** Whoever manufactures or uses any weight or measure of capacity in contravention of the provisions of section 3 shall, on conviction by a Magistrate specially empowered in this behalf, be punishable with fine which may extend to Rs. 50 and for every such subsequent manufacture or use, with fine which may extend to Rs. 100.]

Penalty for counterfeiting mark of certification.

[4][**6.** Whoever knowingly counterfeits any mark prescribed by the rules for certification under section 3 shall, on conviction, by a Magistrate specially empowered in this behalf, be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.]

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1. Clause (c) of section 3-A re-lettered as clause (d) and clause (c) inserted by Act XLIX of 1943
2. Substituted by Act IX of 1927.
3. Substituted by Act XLIX of 1943.
4. Inserted by Act IX of 1927.

MYSORE ACT No. II OF 1903.

[1]THE AGRICULTURAL BANKS (RECOVERY OF GOVERNMENT LOANS) ACT, 1903.

(PASSED ON THE 14TH DAY OF AUGUST 1903.)

An Act to provide for the recovery of loans made to Agricultural Banks by Government.

Preamble.

WHEREAS it is expedient to provide for the recovery of loans made by Government to Agricultural Banks registered under the Mysore Companies Act, 1895, in the manner provided in Article 74 of the Articles of Association of such Banks, that is to say, as arrears of land revenue; His Highness the Maharaja is pleased to enact as follows :—

Loans made to Agricultural Banks recoverable as arrears of land revenue.

1. Any loan made to an Agricultural Bank by Government, whether before or after the passing of this Act, shall be recoverable from the members of such Bank jointly and severally as an arrear of land revenue.

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1 See the Mysore Act VIII of 1949.

THE CITY OF MYSORE IMPROVEMENT ACT, 1903.

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PREAMBLE.

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MYSORE ACT No. III OF 1903.

THE CITY OF MYSORE IMPROVEMENT ACT, 1903.

(*As amended by Acts IV of* 1904, *II of* 1909, *VIII of* 1946, *II of* 1952 *and* 14 *of* 1954.)

(PASSED ON THE 4TH DAY OF NOVEMBER 1903.)

An Act for the Improvement of the City of Mysore and to provide space for its future expansion.

Preamble.

Whereas it is expedient to make provision for the improvement and future expansion of the City of Mysore, as well as for the appointment of a Board of Trustees with special powers to carry out the aforesaid purposes; His Highness the Maharaja is pleased to enact as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (1) This Act may be called the "City of Mysore Improvement Act, 1903";

(2) Except as is hereinafter otherwise provided, it extends only to the City of Mysore;

[1](3) It shall come into force on such date as the Government may, by notification in the [2][*Mysore Gazette*], direct.

Definitions.

[2][**2.** In this Act, unless there is anything repugnant in the subject or context,

(1) "betterment fee" means the fee payable under section 18-A in respect of an increase in the value of land resulting from the execution of an improvement scheme;

(2) "Board" means the Board of Trustees for the improvement of the City of Mysore constituted under sections 3 and 4;

(3) "Chairman" means the Chairman of the Board;

1. The Act came into force on the 1st day of December 1903. *Vide* Notification No. 1973–L. F. 75-03, dated the 25th November 1903.
2. Substituted by Act II of 1952.

(4) " The City of Mysore " or " the City " means the area comprised within the limits prescribed by Government from time to time as the municipal limits of the City of Mysore under the Mysore City Municipalities Act, 1933 ;

(5) " Government " means the Government of Mysore ;

(6) " The Improvement Committee " means the Committee appointed in Government Order No. 4168-79—L.F. 36-02, dated the 18th September, 1902, for the purpose of devising a scheme for the improvement of the City of Mysore;

(7) " land " has the same meaning as in clause (*c*) of section 3 of the Mysore Land Acquisition Act, 1 94 ;

(8) " prescribed " means prescribed by rules made under this Act;

(9) " street " includes any highway and any causeway, bridge, viaduct, arch, road, lane, footway, square, court, alley or passage, whether a thoroughfare or not ;

(10) " trustee " means a member of the Board ; and

(11) All other words and expressions shall have the meanings respectively assigned to them under the Mysore City Municipalities Act, 1933.]

CHAPTER II.

OF THE BOARD OF TRUSTEES.

Board charged with execution of this Act.

3. The duty of carrying out the provisions of this Act shall, subject to such conditions and limitations as are hereinafter contained, be vested in a Board, to be called " The Trustees for the Improvement of the City of Mysore " ; and such Board hereinafter referred to as " the Board " , shall be a body corporate and have perpetual succession and a common seal, and shall sue and be sued by the name first aforesaid.

Constitution of Board.

[1][**4** (1) The Board shall consist of ten trustees as follows :—

The Chairman of the Board to be appointed by Government ;

1. Substituted by Act II of 1952.

The Municipal Commissioner of the City Municipal Council, Mysore ;

The Vice-President for the time being of the Municipal Council, Mysore ;

The Director of Public Health in Mysore, Bangalore ;

The Government Architect ;

Three trustees to be appointed by the Government ; and

Two trustees to be elected by the Municipal Councillors of the City out of their own body in the prescribed manner, or in default of election as aforesaid, to be appointed by the Government from among the Municipal Councillors of the City.

(2) Notwithstanding anything contained in any law for the time being in force, the three trustees appointed by the Government and the two trustees elected by the Municipal Councillors to the Board and holding the office of trustees immediately before the commencement of this Act shall be deemed to have been appointed or elected to the Board as constituted under section 4 of the said Act as amended by this Act :

Provided that the aforesaid trustees shall unless they vacate office earlier or are disqualified under the provisions of the said Act, continue to hold office for the term of two years from the date of the *Mysore Gazette* in which their names were first notified under section 5 of the said Act, as trustees of the Board.]

Names of Trustees to be notified.

5. The names of all Trustees [1][constituting the Board] shall be notified in the [1][*Mysore Gazette*].

Term of office of Trustees.

6. (1) The Chairman of the Board shall hold office during the pleasure of Government.

(2) The other Trustees, not being *Ex-officio* Trustees, shall hold office for a term of [1][three] years from the date of the [1][*Mysore Gazette*] in which their names were notified under the preceding section.

Casual vacancies.

7. (1) Any casual vacancy in the office of a Trustee other than the Chairman occasioned by the death, resignation or disqualification of such Trustee shall be filled up within one month in the same manner, by the same authorities, and subject, so far as may be, to the same

1. Substituted by Act II of 1952.

provisions as are applicable in the case of original appointments and elections of Trustees: Provided that the Trustee so chosen shall retain his office so long only as the vacating Trustee would have retained the same, if such vacancy had not occurred.

(2) If a Trustee, other than the Chairman—

For periods exceeding three months.

(*a*) departs from the City with a declared intention of being absent for a period exceeding three months; or

(*b*) becomes from any cause unable to attend the meetings of the Board for a period exceeding three months; or

(*c*) has been absent from the City for a period exceeding three months;

a person shall be elected or appointed to act for such Trustee during his absence or inability or until he shall cease to be a Trustee, and the person so acting shall be deemed for all the purposes of this Act to be a Trustee.

Saving provision for acting appointment when necessary for less than three months.

(3) Nothing in the last preceding sub-section shall prevent a person being elected or appointed for a period of less than three months in the place of an absent Trustee at the discretion of Government in case the absentee is an appointed Trustee, and on the application of the Board to the Municipal [1][Council] if the absentee is an elected Trustee.

Grounds on which Trustees shall vacate office.

8. (1) Any Trustee who—

(*a*) becomes an insolvent; or

(*b*) is sentenced to imprisonment for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not being subsequently reversed or quashed; or

(*c*) obtains any office or place of profit under the Board; or

(*d*) has directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by, or on behalf of the Board, otherwise than by his having merely a share or interest in—

(*i*) any lease, sale, exchange or purchase of immovable property or any agreement for the same; or

1. The word "Council" substituted for the word "Councillors" by Act II of 1952.

(*ii*) any joint-stock company which shall contract with, or be employed by, or on behalf of, the Board; or

(*iii*) the occasional sale to the Board, to a value not exceeding two thousand rupees in any one official year, of any article in which he trades; or

(*e*) is absent from or unable to attend the meetings of the Board for a period exceeding [1][six consecutive months], or is absent without the permission of the Board from [1][four consecutive ordinary meetings] of the Board; or

(*f*) acts in contravention of the provisions of the next succeeding sub-section; or

(*g*) being an elected Trustee shall cease to be a Municipal [2]Commissioner and is not forthwith re-appointed or re-elected as a Municipal [2]Commissioner;

shall cease to be a Trustee, and his office shall thereupon become vacant.

Restriction on power of Trustees to discuss or vote on matters in which they are interested.

(2) A Trustee shall not at any meeting of the Board or a Committee thereof take part in the discussion of, or vote on any matter in which he has directly or indirectly, by himself or his partner, any share or interest such as is described in the latter part of clause (*d*) of the preceding sub-section, or in which he is interested either professionally on behalf of a client or as agent for any person.

Provisions concerning the Board's proceedings.

9. The following provisions shall be observed with respect to the proceedings of the Board (namely):—

Vacancy not to affect proceedings.

(1) During any vacancy in the Board the continuing Trustees may act as if no vacancy had occurred.

Board to meet and arrange for transactions of business.

(2) The Board shall meet together and shall from time to time make such arrangements, not inconsistent with this Act, with respect to the place, day, hour, notice, management and adjournment of such meetings, and generally with respect to

1. Substituted by Act II of 1952.
2. Sic. should be "Municipal Councillor".

the transaction of business, as they think fit, subject to the following provisions (namely) :—

(*a*) an ordinary meeting shall be held once at least in every month ; — There must be an ordinary meeting once a month or a special meeting whenever necessary.

(*b*) the Chairman may, whenever he thinks fit, and shall, upon the written request of not less than three Trustees, call a special meeting ;

(*c*) no business shall be transacted at any meeting unless at least four Trustees are present from the beginning to the end of such meeting ; — Four Trustees to form a quorum.

(*d*) every meeting shall, if the Chairman be present, be presided over by him ; if he be absent, by such one of the Trustees present as may be chosen by the meeting ; — Chairman, if present, to preside.

(*e*) all questions shall be decided by a majority of votes of the Trustees present, the President having a second or casting vote in all cases of equality of votes ; — All questions to be decided by a majority of votes.

(*f*) minutes shall be kept of the names of the Trustees present and of the proceedings at each meeting in a book to be provided for this purpose, which shall be signed at the next ensuing meeting by the President of such meeting, and shall be open to inspection by any Trustee during office hours. — Minutes to be kept.

(3) The Board may from time to time appoint Committees consisting of the Chairman and such other Trustees as they think fit ; [1][and may, with the approval of the Government, associate with such committees in such manner and for such period as may be prescribed, any person or persons whose assistance or advice they may desire] and may— — Appointment of Committees.

(*a*) refer to such Committees for enquiry and report any subject relating to the purposes of this Act, or

(*b*) delegate to such Committees by a specific resolution in this behalf, and subject to any bye-laws

1. Inserted by Act II of 1952.

made under clause (*a*) of section 39 (1), any of their powers or duties.

Any Committee so appointed shall conform to any instructions that may from time to time be given to them by the Board and the Board may at any time alter the constitution of any Committee so appointed or rescind any such appointment. The Chairman shall be the President of every such Committee.

Acts of Board, etc., not to be invalidated by informalities.

(4) No act of the Board, or of any Committee, or of any person acting as Trustee, shall be deemed to be invalid by reason only of some defect in the appointment of such Board, Committee or Trustee, or on the ground that they, or any of them, were disqualified for the office of Trustee.

Powers of different authorities.

[1][**10.** (1) The Chairman may on behalf of the Board sanction any estimate, call for tenders or enter into any contract or agreement whereof the value or amount shall not exceed three thousand rupees in such manner and form as, according to law for the time being in force, would bind him if such contract or agreement were on his own behalf; and every such contract or agreement shall be reported to the Board at the next ordinary meeting thereof.

(2) The Board may sanction any estimate, call for tenders or enter into any contract or agreement the value whereof exceeds three thousand rupees but does not exceed ten thousand rupees; and where the value of any estimate, contract or agreement exceeds ten thousand rupees the previous sanction of the Government shall be required.

(3) Every contract or agreement on behalf of the Board other than a contract or agreement under sub-section (2) shall be in writing and shall be signed by the Chairman and sealed with the common seal of the Board as hereinafter provided. No contract or agreement unless executed as in this section provided shall be binding on the Board.

1. Section 10 substituted by Act II of 1982.

(4) The common seal of the Board shall remain in the custody of the Chairman who shall personally affix the seal to any contract, or other instrument.]

Board may compromise claims by or against them.

11. The Board may compound or compromise for or in respect of any claim or demand arising out of any contract entered into by them under this Act, or in respect of any action or suit instituted by or against them, for such sum of money or other compensation as they shall deem sufficient.

Duties of Chairman.

12. The Chairman shall—

(1) attend every meeting of the Board, unless prevented by sickness or other reasonable cause;

(2) carry into effect the resolutions of the Board ;

(3) keep and conduct the Board's correspondence;

[1][(3-A) carry out and execute such schemes and works as the Government may direct and incur necessary expenditure therefor ;]

(4) exercise supervision and control over the acts and proceedings of all officers and servants of the Board in matters of executive administration, and in matters concerning the accounts and records of the Board ; and, to the extent specified in section 35 (1), dispose of all questions relating to the service of such officers and servants, and, their pay, privileges and allowances ;

(5) furnish to Government a copy of the minutes of the Board's proceedings and any returns or other information which Government may from time to time call for.

Appointment of Acting Chairman.

13. During any absence of the Chairman, Government may appoint a person to act as Chairman, and any person so appointed shall exercise the powers and perform the duties conferred and imposed by this Act on the person for whom he is appointed to act, and shall be subject to the same liabilities, restrictions and conditions to which the said person is liable.

1. Inserted by Act II of 1952.

CHAPTER III.

DUTIES AND POWERS.

Improvement Schemes.

Power of Board to undertake works and incur expenditure for improvement, etc.

[1][**14.** (1) The Board may, subject to the control of the Government,—

(*a*) draw up detailed schemes (hereinafter referred to as "improvement schemes") for the improvement or expansion or both of the areas to which this Act applies;

(*b*) undertake any works and incur any expenditure for the improvement or development of any such area and for the framing and execution of such improvement schemes as may be necessary from time to time.

(2) The Board may also from time to time make any new or additional improvement schemes—

(i) on its own initiative, if satisfied of the sufficiency of its resources, or

(ii) on the recommendations of the Municipal Council if the Council places at the disposal of the Board the necessary funds for framing and carrying out any such scheme, or

(iii) otherwise.

(3) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, the Government may, whenever they deem it necessary, require the Board to take up any improvement scheme or works and execute it subject to such terms and conditions as may be specified by the Government.]

Particulars to be provided for in an improvement scheme.

15. Every improvement scheme under section 14—

(1) shall, within the limits of the area comprised in the scheme, provide for—

(*a*) the acquisition of any land which will, in the opinion of the Board, be necessary for or affected by the execution of the scheme,

(*b*) re-laying out all or any land including the construction and reconstruction of buildings and the formation and alteration of streets,

(*c*) draining[2] streets so formed or altered;

1. Substituted by Act II of 1952.
2. The words "and lighting" omitted by Act II of 1952.

(2) may, within the limits aforesaid, provide for—

(*a*) raising any land which the Board may deem expedient to raise for the better drainage of the locality,

(*b*) forming open spaces for the better ventilation of the area comprised in the scheme or any adjoining area,

(*c*) the whole or any part of the sanitary arrangements required,

(*d*) the establishment or construction of markets and other public requirements or conveniences; and

(3) may, within and without the limits aforesaid, provide for the construction of buildings for the accommodation of the poorer and working classes, including the whole or part of such classes to be displaced in the execution of the scheme. Such accommodation shall be deemed to include shops.

Procedure on completion of scheme.

16. (1) Upon the completion of an improvement scheme, the Board shall draw up a notification stating the fact of a scheme having been made and the limits of the area comprised therein, and naming a place where particulars of the scheme, a map of the area comprised therein and a statement specifying the [1][land which it is proposed to acquire and of the land in regard to which it is proposed to recover a betterment fee] may be seen at all reasonable hours; and shall—

Copy of Notification of scheme to be communicated to President of the Municipal Council.

(*a*) communicate a copy of such notification to the President of the Municipal [2]Council who shall, within thirty days from the date of receipt thereof, forward to the Board, for transmission to Government as hereinafter provided, any representation which the Municipal [2]Councillors may think fit to make with regard to the scheme;

Publication of notification.

(*b*) cause a copy of the said notification to be published during three consecutive weeks in the [1][*Mysore Gazette*], and posted up in some conspicuous part of their own office, the Deputy Commissioner's office, the office of the Municipal [2]Council and in such other places as the Board may consider necessary.

1. Substituted by Act II of 1952.
2. The words "Council" and "Councillors" were substituted for the words "Commission" and "Commissioners" by Act II of 1909.

[1][(2) During the thirty days next following the day on which such notification is published in the *Mysore Gazette*, the Board shall serve a notice on every person whose name appears in the assessment list of the Municipality or local body concerned or in the land revenue register as being primarily liable to pay the property tax or land revenue assessment on any building or land which it is proposed to acquire in executing the scheme, or in regard to which the Board proposes to recover a betterment fee, stating that the Board proposes to acquire such building or land or to recover such betterment fee for the purpose of carrying out an improvement scheme and requiring an answer within thirty days from the date of service of the notice, stating whether the person so served dissents or not, to such acquisition of the building or land or to the recovery of such betterment fee, and if the person dissents, the reasons for such dissent.]

(3) Such notice shall be signed by, or by the order of, the Chairman and shall be served—

Notices how to be served.

(*a*) by delivery of the same personally to the person required to be served, or if such person is absent or cannot be found, to his agent, or if no agent can be found, then by leaving the same on the land or building ; or

(*b*) by leaving the same at the usual or last known place of abode or business of such person as aforesaid ; or

(*c*) by post addressed to the usual or last known place of abode or business of such person.

The scheme to be then forwarded to Government for sanction.

17. (1) Upon compliance with the foregoing provisions with respect to the publication and service of notices of the scheme, the Board shall, after consideration of any representation or answer received under section 16 and after inserting in the scheme such modifications as they may think fit, apply to Government for sanction to the scheme.

Particulars to accompany application for sanction.

(2) The application for sanction shall, save in the case provided for in sub-section (3) be accompanied by—

(*a*) description with full particulars of the scheme including the reasons for any modifications inserted therein ;

1. Substituted by Act II of 1962.

(*b*) complete plans and estimates of the cost of executing the scheme ;

(*c*) a statement specifying the land proposed to be acquired ;

(*d*) any representation received under sub-section (1) of section 16 ;

(*e*) a schedule showing the rateable value, as entered in the Municipal assessment-book, at the date of the publication of a notification relating to the land under section 16, or the land assessment, of all land specified in the statement under clause (*c*) ; and

(*f*) such further particulars, if any, as may be prescribed by Government.

Procedure when scheme provides for construction of dwellings for the poorer and working classes.

(3) When under any improvement scheme provision in made for the construction of dwellings for the poorer and working classes, the Board may, after complying with the provisions of section 16, forthwith submit to Government for sanction plans and estimates for the construction of such dwellings, and on receipt of such sanction the provisions of section 18 shall, with all necessary modifications, be applicable to the part of the scheme providing for the construction of such dwellings, as if such part were the scheme.

On receipt of sanction declaration to be published giving particulars of land to be acquired.

18. (1) (*a*) On receipt of the sanction of Government, the Chairman shall forward a declaration for notification under the signature of a Secretary to Government, stating the fact of such sanction and that the land proposed to be acquired by the Board for the purposes of the scheme is required for a public purpose.

(*b*) The declaration shall be published in the [1][*Mysore Gazette*] and shall state the limits within which the land proposed to be acquired is situate, the purpose for which it is needed, its approximate area and the place where a plan of the land may be inspected.

And upon such publication Board to proceed to execute the scheme.

(*c*) The said declaration shall be conclusive evidence that the land is needed for a public purpose, and the Board shall, upon the publication of the said declaration, proceed to execute the scheme.

1. Substituted by Act II of 1952.

Board to have power to alter any part of the scheme.

(2) (*a*) If at any time it appears to the Board that an improvement can be made in any part of the scheme, the Board may alter the scheme for the purpose of making such improvement, and shall, subject to the provisions contained in the next two clauses of this sub-section, forthwith proceed to execute the scheme as altered.

(*b*) If the estimated net cost of executing the scheme as altered exceeds, by a greater sum than [1][five per cent,] the estimated net cost of executing the scheme as sanctioned, the Board shall not, without the previous sanction of Government, proceed to execute the scheme as altered.

(*c*) If the scheme as altered involves the acquisiton, otherwise than by agreement, of any land other than that specified in the schedule accompanying the scheme under section 17 (2) (*e*), the provisions of sections 16 and 17 and of sub-section (1) shall apply to the part of the scheme so altered, in the same manner as if such altered part were the scheme.

Payment of betterment fee.

[2][**18-A.** (1) When by the making of any improvement scheme, any land in the area comprised in the scheme, which is not required for the execution thereof will, in the opinion of the Board, be increased in value, the Board, in framing the scheme, may declare that a betterment fee shall be payable by the owner of the land or any person having an interest therein in respect of the increase in value of the land resulting from the execution of the scheme.

(2) Such increase in value shall be the amount by which the value of the land, on the completion of the execution of the scheme estimated as if the land were clear of buildings, exceeds the value of the land prior to the execution of the scheme estimated in like manner, and the betterment fee shall be one-third of such increase in value.

Assessment of betterment fee by the Board.

18-B. (1) When it appears to the Board that an improvement scheme is sufficiently advanced to enable the amount of the betterment fee to be determined, the Board shall, by a resolution passed in this behalf, declare that, for the purpose of determining such fee, the execution of the scheme shall be deemed to have been completed

1. The words " five per cent " substituted for the letters and figure " Rs. 2,500 " by Act II of 1952.
2. Sections 18-A to 18-L inserted by Act II of 1952.

and shall, thereupon, give notice in writing to every person on whom a notice in respect of land to be assessed has been served under sub-section (*2*) of section 16 or to the successor-in-interest of such person, as the case may be, that the Board proposes to assess the amount of the betterment fee payable in respect of such land under section 18-A.

(2) The Board shall then assess the amount of betterment fee payable by each person concerned after giving such person an opportunity to be heard and such person shall, within three months from the date of receipt of notice in writing of such assessment from the Board, inform the Board in writing whether or not he accepts the assessment.

(3) When the assessment proposed by the Board is accepted by the person concerned within the period specified in sub-section (*2*), such assessment shall be final.

(4) If the person concerned does not accept the assessment made by the Board or fails to give the Board the information required under sub-section (*2*) within the period specified therein, the matter shall be determined by an arbitrator appointed by the Government.

Settlement of betterment fee by arbitrator.

18-C. (1) If the Government are satisfied after such inquiry as they think fit that any arbitrator appointed under sub-section (4) of section 18-B has misconducted himself, they may remove him.

(2) If any such arbitrator dies, resigns, becomes disqualified, is removed, or refuses to perform or in the opinion of the Government, neglects to perform or becomes incapable of performing his functions, the Government shall forthwith appoint another arbitrator.

(3) When the arbitrator has made his award, he shall sign it and forward it to the Board and such award shall, subject to the provisions of sub-section (*4*), be final and conclusive and binding on all persons.

(4) Any party aggrieved by an award may, within one month from the date of the communication thereof, appeal to the District Judge, Mysore Division, whether the case arises within or outside the limits of the City and any order or decision of the said District Judge shall be final and conclusive and binding on all persons.

Fee for arbitrator.

18-D. The Board shall pay to the arbitrator a fee to be determined by the Government in respect of the whole of the scheme for which his services are utilised.

Powers and duties of arbitrator.

18-E. (1) The arbitrator shall give notice of his proceedings and conduct them in the manner prescribed by the Government and communicate the substance of his award in writing to the parties concerned :

Provided that every party to such proceedings shall be entitled to appear before the arbitrator either in person or by his authorised agent.

(2) The arbitrator shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908, for the purpose of taking evidence on oath and of enforcing the attendance of witnesses and compelling the production of documents and other material objects.

(3) The costs of and incident to all proceedings before the arbitrator shall be in his discretion and the arbitrator shall have full power to determine by whom or out of what property and to what extent such costs are to be paid and to give all necessary directions for the purpose.

Board to give notice to persons liable to payment of betterment fee.

18-F. When the amount of all betterment fee payable in respect of land in the area comprised in the scheme has been determined under section 18-B or 18-C, as the case may be, the Board shall, by a notice in writing, to be served on all persons liable to such payment, fix a date by which such payment shall be made, and interest at the rate of four per cent per annum upon any amount outstanding shall be payable from that date.

Agreement to make payment of betterment fee a charge on land.

18-G. (1) Any person liable to pay a betterment fee in respect of any land, may, at his option, instead of paying the same to the Board, execute an agreement with the Board to leave the payment outstanding as a charge on his interest in the land, subject to the payment in perpetuity of interest at the rate of four per cent per annum, the first annual payment of such interest to be made one year from the date referred to in section 18-F.

(2) Every payment due from any person in respect of a betterment fee and every charge referred to in sub-section (1) shall, notwithstanding anything contained in any other enactment and notwithstanding the

existence of any mortgage or other charge, whether legal or equitable, created either before or after the commencement of this Act, be the first charge upon the interest of such person in such land.

(3) If any instalment of interest due under an agreement executed in pursuance of sub-section (1) be not paid on the date on which it is due, the betterment fee shall become payable on that date, in addition to the said instalment.

(4) At any time after an agreement has been executed in pursuance of sub-section (1), any person may pay off the charge created thereby, with interest, at six per cent per annum up to the date of such payment.

Recovery of money payable in pursuance of section 18-B, 18-C or 18-G.

18-H. All moneys payable in respect of any land by any person in respect of a betterment fee under section 18-B or section 18-C or by any person under the agreement executed in pursuance of sub-section (1) of section 18-G, shall be recoverable by the Board (together with interest due, up to the date of realization at the rate of four per cent per annum) from the said person or his successor-in-interest in such land in the manner provided by the Mysore City Municipalities Act, 1933, for the recovery of taxes and if the said money is not so recovered, the Chairman may, after giving public notice of his intention to do so, and not less than one month after the publication of such notice, sell the interest of the said person or successor in such land by public auction, and may deduct the said money and the expenses of the sale from the proceeds of the sale, and shall pay the balance (if any) to the defaulter.

Board to appoint persons for enforcement of processes for recovery of dues.

18-I. The Board may direct by what authority any powers or duties incident under the Mysore City Municipalities Act, 1933, to the enforcement of any process for the recovery of taxes, shall be exercised and performed when that process is employed under section 18-H.

Agreement of payment not to bar acquisition under a fresh declaration.

18-J. If any land in respect of which the payment of a betterment fee has been accepted in pursuance of sub-section (3) of section 18-B, or has been made after its determination under section 18-C or in respect of which an agreement in regard to the betterment fee has been

executed under section 18-G, be subsequently required for any of the purposes of this Act, the payment or agreement shall not be deemed to prevent the acquisition of the land in pursuance of a fresh declaration published under section 6 of the Mysore Land Acquisition Act, 1894.

Power of Board to take up works for further improvement.

18-K. Notwithstanding anything contained in any other provisions of this Act, the Board may, with the previous sanction of the Government, take up such works in regard to any area as the Board considers necessary or desirable for the further improvement of that area:

Provided that the municipal council shall be consulted if such area lies within the limits of the City.

The expenditure incurred or proposed to be incurred or such portion thereof, as may be determined by the Board and approved by the Government in carrying out such works, may be recovered by a *pro rata* levy on the owners of properties benefited by such works as may be determined by the Board. The said sum may be recovered as any other sum due to the Board under the provisions of this Act.

Crediting betterment fee collected to the funds of the Council in certain cases.

18-L. Where the increase in value of any land is the result of the execution of an improvement scheme made on the recommendation of the municipal council and for which the Council has placed at the disposal of the Board the necessary funds for framing and carrying out such schemes, the betterment fee collected by the Board from the owners of such land shall be credited by the Board to the municipal fund of the council.]

General.

Land vested in Municipal Council and required by Board for formation or alteration of street to be vested temporarily in the Board.

19. Whenever under any improvement scheme the whole or any part of an existing public street or other land vested in the Municipal [1]Council [2]is included in the site of any part of a street to be formed, altered, widened, diverted, raised, re-arranged or re-constructed by the Board, the Board shall give notice to the President of the Municipal [1]Council that the whole or a part, as the case may be, of such existing street or other land (hereinafter called the " part required ") is required by them as

1. The words "Council" and "Councillors" were substituted for the words "Commission" and "Commissioners" by section 2 of the Act II of 1909.
2. The word "Councillors" substituted by the word "Council" by Act II of 1952.

part of a street to be dealt with as aforesaid, and the part required shall thereupon, subject to the provisions of sub-section (1) of section 21, be vested in the Board :

Provided that nothing in this section contained shall be deemed to affect the rights or powers of the Municipal[1] Council[2] under the [3][Mysore City Municipalities Act, 1933,] in or over any municipal drain or water work.

Board may exercise certain powers of Municipal Councillors in regard to streets, drains, privies, sewers, etc., service of notices, etc., and execution of works and recovery of cost.

[4][**20.** The provisions of sections 41, 50, 90 to 93, 113, 116, 118, 119 and 121 to 125, of the Municipal Act VII of 1906, in regard to streets ; of sections 99 to 105, 107 (1), 108, 109, 111 and 112 in regard to drains, privies, sewers, etc., of section 154 in regard to the service of notices, etc., and of section 156 in regard to the execution of works when the owner or occupier fails to execute the same and the recovery of the expenses thereof from him shall, so far as may be consistent with the tenor of this Act, apply,

(*a*) to streets, drains, privies, sewers, etc., or parts thereof vested in the Board under this Act, and

(*b*) to the service of notices, the execution of works and the recovery of expenses by the Board under this Act ; and all references in the said provisions to the Municipal[5] Councillors or other Municipal authority shall be construed as references to the Board.]

Board and Chairman to exercise powers and functions under the Mysore City Municipalities Act, 1933.

[6][**20-A.** (1) In any area or part thereof to which this Act applies, the Government may, by notification in the *Mysore Gazette*, declare that from such date and for such period as may be specified therein and subject to such restrictions and modifications, if any, as may be specified in the notification :—

(i) the powers and functions of the municipal council or a committee thereof under the Mysore City Municipalities Act, 1933, shall be exercised and discharged by the Board ; and

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1. The words "Council" and "Councillors" were substituted for the words "Commission" and "Commissioners" by section 2 of Act II of 1909.
2. The word "Councillors" substituted by the word "Council" by Act II of 1952.
3. These words were substituted for the original by Act II of 1952.
4. This section was substituted for the original by section 4 of Act of II of 1909.
5. The word "Councillors" was substituted for the word "Commissioners" by section 2 of Act II of 1909.
6. Section 20-A inserted by Act II of 1952.

(ii) the powers and functions of the Commissioner of the municipal council under the said Act, shall be exercised and discharged by the Chairman :

Provided that the municipal council shall be consulted before making such declaration.

(2) On the making of a declaration under sub-section (1), notwithstanding anything contained in any other law for the time being in force, the municipal council or any committee thereof or the Commissioner of the municipal council, shall not be competent to exercise or discharge the powers or functions conferred or imposed on the Board or the Chairman, as the case may be, by such declaration.

(3) The Board or the Chairman may delegate any of the functions exercisable by it or him under sub-section (1) to any officer or servant of the Board.

(4) The exercise or discharge of any of the powers or functions delegated under sub-section (3), shall be subject to such limitations, conditions and control, as may be laid down by the Board or the Chairman, as the case may be.]

Power to abate overcrowding.

[1]**20-B.** (1) The Board may, at any time in manner hereinafter prescribed, take steps to abate overcrowding in buildings within any area comprised in an improvement scheme.

(2) Whenever the Board consider the interior of a building is so overcrowded as to be, or to be likely to become dangerous or prejudicial to the health of the inhabitants of that or of any neighbouring building, the Board may cause proceedings to be taken before a Magistrate of the First Class for the purpose of obtaining an order to prevent such overcrowding.

(3) Such Magistrate may, on the production of a certificate by a Medical Officer duly authorised or empowered by the Board or the Government, stating his opinion that the overcrowding complained of is likely to cause disease or risk of disease, and after such further inquiry, if any, as may appear to such Magistrate necessary, require the owner of the building within a reasonable time, not being more than six weeks or less than ten days, to abate the number of lodgers, tenants or other

1. Renumbered as section 20-B by Act II of 1952.

inmates of the said building to such extent as he shall deem necessary to prescribe, or may pass such other order as he shall deem just and proper.

(4) If the said building shall have been sublet, the landlord of the lodgers, tenants or other actual inmates of the same shall for the purpose of sub-section (3) be deemed to be the owner of the building.

(5) It shall be incumbent on any owner to whom any requisition is issued under sub-section (3), forthwith to give to so many of the lodgers, tenants or other actual inmates of the said building as may be necessary to fulfil the conditions prescribed thereby, written notice to vacate the said building within the period specified in such requisition, and any such lodgers, tenants or inmates receiving such notice shall be bound to comply therewith.

Streets on completion to vest in and be maintained by the Municipal Council.

21. (1) [1][The Government after consulting the Municipal Council] shall, on being satisfied that any street formed by the Board has been duly levelled, paved, metalled, flagged, channelled, drained and sewered in the manner provided for in the plans of any scheme sanctioned by Government and that such lamps, lamp-posts and other apparatus as are in [1][their opinion] necessary for the lighting thereof and should be provided by the Board have been so provided, declare such street to be a public street, and such street shall thereupon vest or re-vest, as the case may be in the Municipal[2] Council,[3] and Municipal [2]Council[3] shall thenceforward maintain, keep in repair, light and cleanse such street.

Open spaces reserved for ventilation to vest in and be maintained by the Municipal Council.

(2) Any open space reserved for ventilation in any part of the City, and provided by the Board as part of any improvement scheme sanctioned by Government, shall be transferred on completion to the President of the Municipal [2]Council for maintenance at the expense of the Municipal [2]Council[3] and shall thereupon vest in the Municipal [2]Council.[3]

Disputes under this section to be determined by Government.

(3) Any dispute which arises between the Board and the President of the Municipal [2]Council in respect of any of the provisions of this section shall be determined by Government whose decision shall be final.

1. Substituted by Act II of 1952.
2. The words "Council" and "Councillors" were substituted for the words "Commission" and "Commissioners" by section 2 of Act II of 1909.
3. The word "Council" substituted for the word "Councillors" by Act II of 1952.

Making of new private extensions, lay-outs or streets.

[1][**21-A.** (1) Notwithstanding anything to the contrary contained in any law for the time being in force, no person shall form or attempt to form any extension or lay-out for the purpose of constructing buildings thereon without the express sanction in writing of the Board and except in accordance with such conditions as the Board may specify :

Provided that where any such extension or lay-out lies within the limits of the City, the Board shall not sanction the formation of such extension or lay-out without the concurrence of the Council :

Provided further that where the Council and the Board do not agree on the formation of or the conditions relating to the extension or lay-out, the matter shall be referred to the Government whose decision thereon shall be final.

(2) Any person intending to form an extension or lay-out or to make a new private street, shall send to the Chairman, a written application with plans and sections showing the following particulars :—

(*a*) the laying out of the sites of the area upon streets, lanes, or open spaces ;

(*b*) the intended level, direction and width of the streets ;

(*c*) the street alignment and the building line, and the proposed sites abutting the streets ;

(*d*) the arrangements to be made for levelling, paving, metalling, flagging, channelling, sewering, draining, conserving and lighting the streets and for adequate drinking water-supply.

(3) The provisions of this Act and of any rules or bye-laws made under it as to the level and width of streets and the height of buildings abutting thereon, shall apply also in the case of streets referred to in sub-section (2) and all the particulars referred to in that sub-section shall be subject to the approval of the Board.

(4) Within six months after the receipt of any application under sub-section (2), the Board shall, either sanction the forming of the extension or lay-out or making of the street on such conditions as it may think fit or disallow it, or ask for further information with respect to it.

1. Section 21-A to 21-C inserted by Act II of 1953.

(5) The Board may require the applicant to deposit before sanctioning the application, the sums necessary for meeting the expenditure for making roads, side-drains, culverts, underground drainage and water-supply and lighting and the charges for such other purposes as such applicant may be called upon by the Board, provided the applicant also agrees to transfer the ownership of the roads, drains, water-supply mains and open spaces laid out by him to the Board permanently without claiming any compensation therefor.

(6) Such sanction may be refused,—

(*i*) if the proposed street would conflict with any arrangements which have been made or which are, in the opinion of the Board, likely to be made for carrying out any general scheme of street improvement or other schemes of improvement or expansion by the Board;

(*ii*) if the proposed street does not conform to the provisions of the Act, rules and bye-laws referred to in sub-section (3); or

(*iii*) if the proposed street is not designed so as to connect at one end with a street which is already open;

(*iv*) if the lay-out, in the opinion of the Board, cannot be fitted with any existing or proposed expansion or improvement schemes of the Board.

(7) No person shall form a lay-out or make any new private street without the sanction of or otherwise than in conformity with the conditions imposed by the Board. If the Board requires further information from the applicant, no steps shall be taken by him to form the lay-out or make the street, until orders have been passed by the Board after the receipt of such information:

Provided that the passing of such orders shall not, in any case, be delayed for more than six months after the Board has received all the information which it considers necessary to enable it to deal finally with the said application.

(8) If the Board does not refuse sanction within six months from the date of receipt of the application under sub-section (2) or from the date of receipt of all information asked for under sub-section (7), such sanction shall

be deemed to have been granted and the applicant may proceed to form the extension or lay-out or to make the street, but not so as to contravene any of the provisions of this Act and the rules or bye-laws made under it.

(9) Any person who forms or attempts to form any extension or lay-out in contravention of the provisions of sub-section (1) or makes any street without or otherwise than in conformity with the orders of the Board under this section, shall be liable on conviction, to a fine which may extend to one thousand rupees.

Alteration or demolition of extension, layout or street.

21-B. (1) If any person forms an extension or layout or makes any street referred to in section 21-A or puts up any building without or otherwise than in conformity with the orders of the Board under section 21-A, the Chairman may, whether or not the offender be prosecuted under this Act, by notice :—

(*a*) require the offender to show sufficient cause, by a written statement signed by him and sent to the Chairman on or before such day as may be specified in the notice, why such extension, lay-out or street, should not be altered to the satisfaction of the Chairman or if such alteration be deemed impracticable by the Chairman, why such extension, lay-out or street should not be demolished, or

(*b*) require the offender to appear before the Chairman, either personally or by a duly authorised agent, on such day and at such time and place as may be specified in the notice and show cause as aforesaid.

(2) If any person on whom such notice is served fails to show sufficient cause to the satisfaction of the Chairman why such extension, lay-out or street, should not be so altered or demolished, the Chairman may pass an order directing the alteration or demolition of such extension, lay-out or street.

Power of Chairman to order work to be carried out or to carry it out himself in default.

21-C. (1) The Chairman may,

(*a*) if any person who applied for permission under section 21-A and is permitted expressly by the Board to carry out himself the works relating to the forming of the extension or lay-out or the making of a street does not so carry it out; or

(*b*) if any private street or part thereof is not levelled, paved, metalled, flagged, channelled, sewered, drained, conserved or lighted to the satisfaction of the Chairman;

by notice, require the person forming the extension or lay-out or the owners of such street or part and the owners of buildings and lands fronting or abutting on such street or part, including in cases where the owners of the land and of the building thereon are different, the owners both of the land and of the buildings, to carry out any work which, in his opinion, may be necessary and within such time, as may be specified in such notice.

(2) If any such work is not carried out within the time specified in the notice under sub-section (1), the Chairman may, if he thinks fit, execute it himself or cause it to be executed, and the expenses incurred shall be paid by the persons or owners referred to in sub-section (1), in such proportions as may be determined by the Chairman. Such expenses may be recovered from the persons concerned as if they were arrears of land revenue.]

Acquisition of land.

Board to have power to acquire land by agreement.

22. Subject to the provisions of this Act, it shall be lawful for the Board to agree with the owners of any land or of any interest in land, whether situated within or without the City, needed by the Board for the purposes of this Act for the purchase of such land or of any interest in such land.

Provisions applicable to the acquisition of land otherwise than by agreement.

23. The acquisition otherwise than by agreement of land within or without the City under this Act shall be regulated by the provisions, so far as they are applicable, of the Land Acquisition Act, 1894, and by the following further provisions, namely :—

(1) Upon the passing of a resolution by the Board that an improvement scheme under section 14 is necessary in respect of any locality, it shall be lawful for any person either generally or specially authorised by the Board in this behalf and for his servants and workmen, to do all such acts on or in respect of land in that locality as it would be lawful for an officer duly authorised by Government to act

under section 4 (2) of the Land Acquisition Act, and for his servants and workmen, to do thereunder; and the provision contained in section 5 of the said Act shall likewise be applicable in respect of damage caused by any of the acts first mentioned.

(2) The publication of a declaration under section 18 shall be deemed to be the publication of a declaration under section 6 of the Land Acquisition Act.

(3) For the purposes of section 50 (2) of the Land Acquisition Act, the Board shall be deemed to be the local authority concerned.

(4) After the land vests in the Government under section 16 of the Land Acquisition Act, the Deputy Commissioner shall, upon payment of the cost of the acquisition, and upon the Board agreeing to pay any further costs which may be incurred on account of the acquisition, transfer the land to the Board, and the land shall thereupon vest in the Board.

CHAPTER IV.

PROPERTY AND FINANCE.

Power of Government to transfer to Board lands belonging to it or to Municipal Council.

24. The Government may, from time to time, for the purposes of this Act and subject to such limitations and conditions as it may impose and to the provisions hereinafter contained, transfer to and vest in the Board any land belonging to Government or to the Municipal [1][Council][2]:

Proviso as to resumption of lands required for a public purpose.

Provided that any such land not already conveyed or agreed to be conveyed by the Board, which shall be required by Government or the Municipal [1][Council][2] for a public purpose, may at any time be resumed by Government, or by the Municipal [1][Council][2] with the previous sanction of Government, as the case may be, on such terms, if any, as the Government may determine.

1. The word "Councillors" was substituted for the word "Commissioners" by Act II of 1909.
2. The word "Council" was substituted for the word "Councillors" by Act II of 1952.

Power of Board to acquire, hold and dispose of property.

[1][**25.** (1) The Board shall, for the purposes of this Act, have power to acquire and hold moveable and immoveable property, whether within or outside the City, and shall also subject to the restrictions contained in sub-section (2), have power—

To lease

(*a*) to let on hire or lease any moveable or immoveable property, which may have become vested in or acquired by them ;

To sell and otherwise convey.

(*b*) to sell and otherwise convey, with or without any conditions, any moveable or immoveable property which may have become vested in or acquired by them ; and

And to apply lands vested in them for purposes of improvement schemes.

(*c*) to appropriate or apply the whole or any part of the lands which may have become vested in or acquired by them, for the formation of open spaces, or for building purposes, or in any other manner for the purposes of any improvement scheme.

(2) No free grant of moveable or immoveable property shall be made without the previous sanction of Government being obtained in this behalf.]

Improvement Fund, and the items to be credited to such fund.

26. (1) The rents, profits and sale proceeds, of all lands, buildings and other property vested or vesting in or acquired by the Board under this Act shall be credited to a fund to be called " the City of Mysore Improvement Fund."

(2) There shall also be credited to the said fund—

(*a*) such sums as may be placed by Government at the disposal of the Board from time to time for the purposes of this Act ; and

(*b*) such contributions from the Municipal Fund as the Municipal [2][Council][3] may from time to time be called upon by Government to make, on a consideration by Government of the relief or addition to the municipal resources accruing or likely to accrue as the result of improvement schemes undertaken by the Board.

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1. Substituted by Act 14 of 1954.
2. The word " Councillors " was substituted for the word " Commissioners " by Act II of 1909.
3. The word "Council" was substituted for the word "Councillors" by Act II of 1952.

[1][(*c*) Subject to the provisions of section 18-L betterment fee and other sums due and paid to or recovered by the Board under the provisions of this Act.]

Application of the Improvement Fund.

27. (1) The said fund shall be held by the Board in trust, and shall be applied by them, subject to the general or special orders of Government, in payment of the charges incidental to the carrying out of the purposes of this Act.

(2) Such charges shall be held to include, among other things—

(*a*) the cost, if any, of maintaining a separate establishment for the collection of the rents and profits and other proceeds of property vested or vesting in or acquired by the Board under this Act;

(*b*) the cost of petty and other establishments, not being part of the scheduled staff necessary for the supervision of properties or other revenue purposes;

(*c*) the cost of management including the salaries and allowance of the scheduled staff, and all incidental expenses; and

(*d*) all payments made by the Board in respect of rates and taxes levied under the [2][Mysore City Municipalities Act, 1933,] upon lands and buildings vested in the Board and not subject to exemption.

(3) The Board may also, from time to time, and in accordance with the rules framed by Government under section 38, make advances from the said fund for the purpose of enabling persons not being Government servants to provide themselves with houses or other accommodation.

Chairman to frame an annual estimate of income and expenditure.

28. (1) The Chairman shall, at a special meeting to be held not later than the first day of [2][February] in each year, lay before the Board an estimate of the income and of the expenditure of the Board for the year commencing on the first day of [2][April] then next ensuing, in such detail and form as the Board shall from time to time direct.

1. Added by Act II of 1952.
2. Substituted by Act II of 1952.

(2) Such estimate shall make provision for the efficient administration of this Act and shall be completed, and a copy thereof sent by post, or otherwise to each Trustee, at least ten clear days prior to the meeting before which the estimate is to be laid.

Board to sanction or amend such estimate.

29. The Board shall consider the estimate so submitted to them, and shall sanction the same either unaltered, or subject to such alterations as they shall think fit.

Estimates to be submitted to Government for sanction.

30. The estimate, as sanctioned by the Board, shall be submitted to Government, who may, if they think fit, disallow such estimate, or any portion thereof, and return the same for amendment. The Board shall, if the estimate is so returned by Government, forthwith proceed to amend the same and shall resubmit the estimate so amended to Government. A copy of the estimate [1][as sanctioned by the Government] shall be sent to the President of the Municipal [2]Council.

Supplementary estimates may be prepared and submitted when necessary.

31. The Board may, at any time during the year for which any such estimate has been sanctioned, cause a supplementary estimate to be prepared and submitted to them. Every such supplementary estimate shall be considered and sanctioned by the Board and submitted to Government, and a copy shall be sent to the President of the Municipal [2]Council in the same manner as if it were an original annual estimate.

Provisions regarding expenditure.

32. No sum shall be expended by or on behalf of the Board, unless included in some estimate at the time in force which has been finally approved by Government, or in the amount payable by the Board under a decree or award of a Court :

Provided that in any case of pressing emergency a sum not exceeding [3][ten thousand rupees] may be expended though not so included, the circumstances being forthwith reported by the Chairman to Government, together with an explanation of the way in which it is proposed by the Board to cover such extra expenditure.

1. Inserted by Act II of 1952.
2. The word "Council" was substituted for the word "Commission" by Act II of 1909.
3. Substituted by Act II of 1952.

Accounts to be audited and examined by officer or authority appointed by the Government for this purpose and submitted to Government. An abstract of the accounts to be furnished to the Municipal Council.

33. The accounts of the receipts and expenditure of the Board shall be audited and examined by the [1][officer or authority appointed by the Government for this purpose] in the same manner as the accounts of Government Departments, and shall, twice in every year, be laid before Government. An abstract of the audited accounts for each year shall be sent to the President of the Municipal [2]Council.

CHAPTER V.

OF THE OFFICERS AND SERVANTS OF THE BOARD.

Schedule of officers and servants to be submitted for sanction of Government.

34. The Board shall from time to time prepare and submit for the sanction of Government a schedule of the staff of officers and servants whom they shall deem it necessary and proper to maintain for the purposes of this Act. Such schedule shall also set forth the amount and nature of the salaries, fees and allowances which the Board propose for each such officer or servant. No alteration in the sanctioned schedule shall be made without the sanction of Government.

Appointments, etc., by whom to be made.

35. (1) Subject to the provisions of the bye-laws framed under sub-section (*c*) of section 39 (1) and of the schedule for the time being in force sanctioned by the Government under section 34, the power of appointing, promoting, suspending, dismissing, fining, reducing, or granting leave to the officers and servants of the Board (not being officers in Government service lent to the Board) shall be exercised by the Chairman in the case of officers and servants whose monthly salary does not exceed [1][one hundred and fifty rupees], and in every other case by the Board.

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1. Substituted by Act II of 1952.
2. The word "Council" was substituted for the word "Commission" by Act II of 1909.

(*Chapter VI—Dissolution of the Board*)

[1][Provided that in the case of officers in Government service lent to the Board, the Chairman may exercise the powers of sanctioning or withholding increments, fining or suspending, and shall report the fact to the Head of the Department of Government to which such officers belong.]

(2) The power of dispensing with the services of any officer or servant of the Board (not being an officer in Government service lent to the Board), otherwise than by reason of such officer's or servant's own misconduct, or of permitting any such officer or servant to retire on a pension, gratuity, or compassionate allowance, shall, subject to the aforesaid provisions, be exercised by the Board alone.

The case of lent officers.

36. Officers in Government service lent to the Board shall except as otherwise provided under rules or orders which may be made by Government from time to time, be subject to the provisions in this behalf contained in the Mysore Services Regulations.

CHAPTER VI.

DISSOLUTION OF THE BOARD.

Government may dissolve the Board when the purpose of their appointment is fulfilled.

37. (1) When the Government is satisfied that all such improvement schemes as may have been sanctioned by it from time to time for execution by the Board have been executed by the Board in substantial entirety, and that such further measures as may be necessary in the near future for the improvement of the City may conveniently be undertaken under the ordinary provisions of the Municipal Law in force, the Government may, by an order to be published in the [2][*Mysore Gazette*,] declare that the Board shall be dissolved with effect from a date to be specified in such order.

Matters to be dealt with in the order for dissolution.

(2) Such order shall make due provision for the devolution of the assets and liabilities of the Board, the disposal or management of property vested in the Board, the completion of incomplete works, and all other matters

1. Proviso to sub-section (1) of section 36 added by Act II of 1952.
2. Substituted by Act II of 1952.

incidental to the dissolution of the Board and the winding up of their affairs :

Vesting of immovable property.

Provided that all immovable properties vested in the Board on the date of their dissolution and not expressly reserved to Government in the said order shall thereafter vest in the Municipal [1]Council.[2]

CHAPTER VII.

RULES AND BYE-LAWS, PENALTIES, ETC.

Power of Government to make rules.

38. The Government may from time to time make rules, not inconsistent with this Act,

(*a*) for the guidance of the Board, the Municipal [1][Council, [2][Government Officers and all other persons in matters connected with the administration of this Act or in case not expressly provided for herein.[3]

[4][(*b*) For the delegation by the Chairman of any of his powers, duties or functions under this Act or any rule made thereunder except those conferred by or imposed upon or vested in him by sections 9, 12, 28, 32 and 45 and for the conditions or limitations subject to which such delegation may be made and]

[5](*c*) generally for carrying out the purposes of this Act.

Power of Board to make bye-laws.

39. (1) The Board may from time to time make bye-laws, not inconsistent with this Act or with the rules made by Government—

(*a*) for regulating the delegation of the powers and duties of the Board to Committees;

(*b*) for the guidance of persons employed by them under this Act;

(*c*) for regulating the grant of leave, leave allowances, pensions and gratuities, and other such matters, in respect of the officers and servants of the Board,

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1. The word "Councillors" was substituted for the word "Commissioners" by Act II of 1909.
2. The word "Council" was substituted for the word "Councillors" by Act II of 1952.
3. The word "and" omitted by Act II of 1952.
4. Sub-section (b) of section 38 inserted by Act II of 1952.
5. Clause (b) of section 38 relettered as clause (c) by Act II of 1952.

not being officers in Government service lent to the Board ;

(*d*) for the management, use and regulation of dwellings constructed for the poorer or working classes under any scheme ;

(*e*) for regulating the construction and reconstruction of buildings in regard to such matters as the following, namely, the notice to be given previous to erection, the plans to be submitted, the line of frontage with neighbouring buildings, the free space to be left about the building, the level and width of foundation, the stability of structure, the materials to be used, and the provision to be made for drainage and ventilation ; and

[1][(*e-i*) for the forming of extensions or lay-outs and the laying-out of private streets, for determining the information and plans to be submitted with applications for permission to form extensions or lay-outs and to make private streets ; and for regulating the level and width of streets and the height of buildings abutting thereon ;]

(*f*) generally for carrying out the purposes of this Act.

(2) No bye-law shall have effect until the same shall have been approved by Government, and no bye-law shall be approved by Government until the same shall have been published for three weeks successively in the [2][*Mysore Gazette.*]

(3) It shall be lawful for Government at any time to cancel any bye-law made and published under this section.

Penalties for infringement of rules and bye-laws.

40. The Government, and with the approval of the Government, the Board may, in the rules and bye-laws made respectively, under sections 38 and 39, prescribe such penalties as it or they shall deem fit for the infringement of the same ; provided that no penalty for any one infringement of a rule or bye-law shall exceed one hundred rupees nor, in case of a continuing infringement, shall any penalty exceed fifty rupees per diem for every day after notice of such infringement shall have been given by the Board to the person guilty of such infringement.

1. Inserted by Act II of 1952.
2. Substituted by Act II of 1952.

Rules and bye-laws to be exhibited.

41. The said rules and bye-laws shall be printed in the English and Kannada languages and hung up at convenient places.

Penalty for permitting overcrowding, etc.

[1][**41-A.** Any owner of a building who, after the date specified in any requisition issued under sub-section (3) of section 20-A[2], permits the overcrowding of any building in contravention of such requisition, and any person who omits to vacate any such building in accordance with notice given to him under sub-section (5) of the said section, shall be punished with fine which may extend to ten rupees for each day subsequent to the date specified in such requisition during which such overcrowding, or such omission to vacate, continues.]

Penalty for being interested in contracts with the Board.

42. Any person who being a Trustee, or an officer or servant of the Board, shall acquire, directly or indirectly, any share or interest in any contract or employment with, by, or on behalf of the Board, shall be deemed to have committed the offence made punishable by section 168 of the Indian Penal Code :

Proviso.

Provided that a person shall not be deemed to have any share or interest in such contract or employment by reason only of his having a share or interest in any of the matters mentioned in sub-clauses (i), (ii) and (iii) of section 8 (1) (*d*).

Penalty for obtaining illegal gratification.

43. Any person employed under this Act, not being a public servant within the meaning of section 21 of the Indian Penal Code, who shall, accept or obtain, or agree to accept or attempt to obtain, from any person, for himself or for any other person, any gratification whatever other than legal remuneration, as a reward for doing, or forbearing to do any official act, or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering, or attempting to render, any service or disservice to any person, with the Board or with any public servant as such, or with Government, shall be liable to the same punishment as is provided by the Indian Penal Code in the case of the like offence committed by a public servant.

Cognizance of offence.

44. (1) All offences against this Act or against any rule or bye-law made thereunder shall be cognizable by

1. This section was add d by of Act IV of 1904.
2. Sic. should be "section 20-B".

any Magistrate with powers not less than those of a Magistrate of the Second Class.

(2) All fines recovered from any offender shall be paid to the credit of the City of Mysore Improvement Fund. Fines to be credited to Improvement Fund.

45. [1][Save as otherwise provided in section 18-H all sums due] by any person to the City of Mysore Improvement Fund on account of rents, profits, or sale proceeds of property vested in or acquired by the Board, or on account of advances for house-building, or otherwise howsoever, and remaining in arrear after fifteen days from the date of service on such person of a notice of demand by the Chairman, may be recovered in any one or more of the following ways, namely:— Recovery of sums due to the improvement Fund.

(1) as an arrear of land revenue, on the written application of the Chairman in this behalf to the Deputy Commissioner of any district in which proceedings are required to be taken;

(2) by distraint and sale, by or under the orders of the Chairman, of the movable property of such person; and

(3) by the institution by the Chairman, of a civil suit against such person.

46. (1) No suit or other proceeding shall be commenced [1][against the Board, the Chairman or any officer or servant of the Board or against any person acting under the direction of the Board, Chairman or officer of the Board,] for anything done, or purporting to have been done, in pursuance of this Act or a rule or bye-law thereunder, without giving to [1][the Board] one month's previous notice in writing of the intended suit or other proceeding, and of the cause thereof, nor after six months from the accrual of the cause of such suit or other proceeding, nor after tender of sufficient amends. Limitation of suits.

(2) Neither the Board nor any Trustee or officer or servant of the Board shall be liable to be sued for damages for any act *bona fide* done or ordered to be done by them or him as such in pursuance of this Act or a rule or bye-law thereunder. Bar of suit for damages in certain cases.

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1. Substituted by Act II of 1952.

THE SOCIETIES REGISTRATION ACT, 1904.

Arrangement of Sections.

PREAMBLE.

Sections.

1. Short title, extent and commencement.
2. Societies formed by memorandum of association and registration.
3. Memorandum of association.
3-A. Procedure for changing name or rules of societies.
4. Registration fees.
5. Annual list of managing body to be filed.
5-A. Meetings.
6. Property of society how vested.
7. Suits by and against societies.
8. Suits not to abate.
9. Enforcement of judgment against society.
10. Recovery of penalty accruing under bye-law.
11. Members liable to be sued as strangers.
Recovery by successful defendant of costs adjudged.
12. Members guilty of offences punishable as strangers.
13. Societies enabled to alter, extend or abridge their purposes.
14. Provision for dissolution of societies and adjustment of their affairs.
Assent required.
Government consent.
15. Upon a dissolution, no member to receive profit.
Clause not to apply to Joint-Stock Companies.
16. Member defined.
Disqualified members.
17. Governing body defined.
18. Registration of societies formed before Act.
Assent required.
19. Such societies to file memorandum, etc., with Registrar of Joint-Stock Companies.
20. Inspection of documents.
21. To what societies Act applies.
21-A. Inspection and investigation by Registrar.
21-B. Penalty
22. Power to make rules.

MYSORE ACT No. III OF 1904.

THE SOCIETIES REGISTRATION ACT, 1904.

(*As amended by Acts V of* 1939, *XXXI of* 1943, *and XXVIII of* 1945.)

(PASSED ON THE 15TH DAY OF MARCH 1904.)

An Act for the Registration of Literary, Scientific and Charitable Societies.

WHEREAS it is expedient that provision should be made for [1][regulating, controlling and] improving the legal condition of societies established for the promotion of literature, science, or the fine arts, or for the diffusion of useful knowledge, or for charitable purposes; His Highness the Maharaja is pleased to enact as follows:— Preamble.

1. (1) This Act may be called the Societies Registration Act, 1904; Short title, extent and commencement.

(2) It extends to the [2][whole of the State of Mysore except Bellary District]; and

(3) It shall come into force on the date of its first publication in the Official Gazette.[3]

2. Any seven or more persons associated for any literary, scientific or charitable purpose, or for any such purpose as is described in section 21 of this Act, may, by subscribing their names to a memorandum of association and filing the same with the Registrar of Joint-stock Companies form themselves into a society under this Act. Societies formed by memorandum of association and registration.

3. The memorandum of association shall contain the following things (that is to say)— Memorandum of Association.

the name of the society:

the objects of the society:

the names, addresses, and occupations of the governors, council, directors, committee or other governing body to whom, by the rules of the society, the management of its affairs is entrusted;

[1][the situation of the premises of the Society.]

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1. Inserted by Act XXXI of 1943.
2. See the Mysore Adaptation of Laws Order, 1953.
3. The date of first publication was the 31st March 1904.

A copy of the rules and regulations of the society, certified to be a correct copy by not less than three of the members of the governing body, shall be filed with the memorandum of association.

[1][Every change in the memorandum of association shall, within 30 days of the making thereof, be filed with the Registrar.]

[2][**3-A.** (*i*) The name or the rules of a society may be changed by a resolution of the general body passed by a majority of not less than three-fifths of the members as are present in person or by proxy (where the rules provide for voting by proxy), at a special meeting convened for this purpose, of which written or printed notice shall have been delivered or sent by post to every member of the society within 21 days prior to the date of the meeting.

(*ii*) Such change in the rules shall take effect only affter they are duly registered in the office of the Registrar. A change in the name of the society shall take effect only after it has been approved by the Registrar.]

Registration Fees.

4. Upon such memorandum and certified copy being filed, the Registrar shall certify under his hand that the society is registered under this Act. There shall be paid to the Registrar for every such registration a fee of twenty rupees, or such smaller fee as the Government may, from time to time, direct; and all fees so paid shall be accounted for to Government.

Annual list of managing body to be filed.

5. [3](*a*) Once in every year, on or before the fourteenth day succeeding the day on which, [4]the annual general meeting of the society is held,[4] a list shall be filed with the Registrar of Joint-stock Companies of the names, addresses and occupations of the governors, council, directors, committee or other governing body then entrusted with the management of the affairs of the society.

[5][(*b*) A copy of the balance sheet together with a statement of receipts and expenditure audited by a person who has been granted a certificate by the Government under section 144 of the Mysore Companies Act, 1938,[6] or by a special auditor approved by the Government, shall

1. Added by Act XXXI of 1943.
2. Inserted by Act XXXI of 1943.
3. Renumbered as sub-section (*a*) of section 5 by Act V of 1939.
4. Certain words omitted by Act XXXI of 1943.
5. Sub-sections (*b*), (*c*) and (*d*) added by Act V of 1939.
6. *See* Part B States (Laws) Act, 1951, (Central Act No. III of 1951).

also be filed with the Registrar of Joint-stock Companies, at the same time.

(*c*) A filing fee of eight annas each shall be paid along with the list and the balance sheet referred to in sub-sections (*a*) and (*b*). The said fee may be paid either by affixing Mysore Court Fee Stamps or by crediting the amount to any Government Treasury and by attaching the duplicate chellan to the documents.]

[1](*d*) [* * *]

[2][**5-A.** (1) All societies registered under this Act shall hold every year a general meeting at which the report of the management of the institution for the previous year, together with an audited copy of the balance sheet, receipts and expenditure statement and the auditor's report shall be submitted for approval.

(2) A special meeting may be convened at any time on the requisition of the President or Chairman of the executive committee, if any, or on the requisition of not less than three members of the executive committee or seven members of the general body of the society, who shall state in writing the business for which they wish the meeting to be convened. The Secretary shall convene a meeting of the society before the lapse of ten days from the date of the receipt of the requisition.

(3) If a member has no registered address in [3][the State of Mysore except Bellary District] and has not supplied to the society an address within [3][the State of Mysore except Bellary District] for the giving of notice to him, a notice advertised in two newspapers (one in English and the other in any of the vernacular languages) circulating in the neighbourhood of the registered office of the society, shall be deemed to be duly given to him on the day on which the advertisement appears.]

Property of society how vested.

6. The property, movable and immovable, belonging to a society registered under this Act, if not vested in trustees, shall be deemed to be vested, for the time being, in the governing body of such society, and in all proceedings, civil and criminal, may be described as the property of the governing body of such society by their proper title.

1. Sub-section (*d*) of section 5 deleted by Act XXVIII of 1945.
2. Section 5-A inserted by Act XXXI of 1943.
3. *See* the Mysore Adaptation of Laws Order, 1953.

Suits by and against societies.

7. Every society registered under this Act may sue or be sued in the name of the president, chairman, or principal secretary, or trustees, as shall be determined by the rules and regulations of the society, and, in default, of such determination, in the name of such person as shall be appointed by the governing body for the occasion:

Provided that it shall be competent for any person having a claim or demand against the society, to sue the president or chairman, or principal secretary or the trustees thereof, if, on application to the governing body, some other officer or person be not nominated to be the defendant.

Suits not to abate.

8. No suit or proceeding in any Civil Court shall abate or discontinue by reason of the person by or against whom such suit or proceeding shall have been brought or continued, dying or ceasing to fill the character in the name whereof he shall have sued or been sued, but the same suit or proceeding shall be continued in the name of or against the successor of such person.

Enforcement of Judgment against society.

9. If a judgment shall be recovered against the person or officer named on behalf of the society, such judgment shall not be put in force against the property, movable or immovable, or against the body of such person or officer, but against the property of the society.

The application for execution shall set forth the judgment, the fact of the party against whom it shall have been recovered having sued or having been sued, as the case may be, on behalf of the society only, and shall require to have the judgment enforced against the property of the society.

Recovery of penalty accruing under bye-law.

10. Whenever by any bye-law duly made in accordance with the rules and regulations of the society, or, if the rules do not provide for the making of bye-laws, by any bye-law made at a general meeting of the members of the society convened for the purpose (for the making of which the concurrent votes of three-fifths of the members present at such meeting shall be necessary), any pecuniary penalty is imposed for the breach of any rule or bye-law of the society, such penalty, when accrued, may be recovered in any court having jurisdiction where the defendant shall reside, or the society shall be situate, as the governing body thereof shall deem expedient.

11. Any member who may be in arrear of a subscription which, according to the rules of the society, he is bound to pay, or who shall possess himself of or detain any property of the society in a manner or for a time contrary to such rules, or shall injure or destroy any property of the society, may be sued for such arrear or for the damage accruing from such detention, injury or destruction of property in the manner hereinbefore provided. Members liable to be sued as strangers.

But if the defendant shall be successful in any suit or other proceeding brought against him at the instance of the society, and shall be adjudged to recover his costs, he may elect to proceed to recover the same from the officer in whose name the suit shall be brought, or from the society, and in the latter case shall have process against the property of the said society in the manner above described. Recovery by successful defendant of costs adjudged.

12. Any member of the society who shall steal, purloin or embezzle any money or other property, or willfully and maliciously destroy or injure any property of such society, or shall forge any deed, bond, security for money, receipt or other instrument, whereby the funds of the society may be exposed to loss, shall be subject to the same prosecution, and, if convicted, shall be liable to be punished in like manner, as any person not a member would be subject and liable to in respect of the like offence. Members guilty of offences punishable as strangers.

13. Whenever it shall appear to the governing body of any society registered under this Act, which has been established for any particular purpose or purposes, that it is advisable to alter, extend or abridge such purpose to or for other purposes within the meaning of this Act, or to amalgamate such society either wholly or partially with any other society, such governing body may submit the proposition to the members of the society in a written or printed report, and may convene a special meeting for the consideration thereof according to the regulations of the society; Societies enabled to alter, extend or abridge their purposes.

but no such proposition shall be carried into effect unless such report shall have been delivered or sent by post to every member of the society ten days previous to the special meeting convened by the governing body for the consideration thereof,

nor unless such proposition shall have been agreed to by the votes of three-fifths of the members delivered in

person or by proxy, and confirmed by the votes of three-fifths of the members present at a second special meeting convened by the governing body at an interval of one month after the former meeting.

Provision for dissolution of societies and adjustment of their affairs.

14. Any number not less than three-fifths of the members of any society may determine that it shall be dissolved, and thereupon it shall be dissolved forthwith, or at the time then agreed upon, and all necessary steps shall be taken for the disposal and settlement of the property of the society, its claims and liabilities, according to the rules of the said society applicable thereto, if any, and, if not, then as the governing body shall find expedient, provided that, in the event of any dispute arising among the said governing body or the members of the society, the adjustment of its affairs shall be referred to the principal Court of original civil jurisdiction of the district in which the chief building of the society is situate; and the Court shall make such order in the matter as it shall deem requisite:

Assent required.

Provided that no society shall be dissolved unless three-fifths of the members shall have expressed a wish for such dissolution by their votes delivered in person, or by proxy, at a general meeting convened for the purpose:

Government consent.

Provided that whenever the Government is a member of, or a contributor to, or otherwise interested in, any society registered under this Act, such society shall not be dissolved without the consent of Government.

Upon a dissolution, no member to receive profit.

15. If upon the dissolution of any society registered under this Act, there shall remain, after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the members of the said society or any of them, but shall be given to some other society, to be determined by the votes of not less than three-fifths of the members present personally or by proxy at the time of the dissolution, or, in default thereof, by such Court as aforesaid:

Clause not to apply to Joint-stock Companies.

Provided, however, that this clause shall not apply to any society which shall have been founded or established by the contributions of shareholders in the nature of a Joint-stock Company.

Member defined.

16. For the purposes of this Act a member of a society shall be a person who, having been admitted therein according to the rules and regulations thereof, shall have

paid a subscription, or shall have signed the roll or list of members thereof, and shall not have resigned in accordance with such rules and regulations; but in all proceedings under this Act no person shall be entitled to vote or to be counted as a member whose subscription at the time shall have been in arrear for a period exceeding three months. Disqualifi members.

17. The governing body of the society shall be the governors, council, directors, committee, trustees or other body to whom by the rules and regulations of the society, the management of its affairs is entrusted. Governing body defined

18. Any society established for a literary, scientific or charitable purpose, and constituted previously to the passing of this Act, may at any time hereafter be registered as a society under this Act, subject to the proviso that no such society shall be registered under this Act unless an assent to its being so registered has been given by three-fifths of the members present personally, or by proxy, at some general meeting convened for that purpose by the governing body. Registration of societies formed before Act. Assent required.

If no governing body shall have been constituted on the establishment of the society, it shall be competent for the members thereof, upon due notice, to create for itself a governing body to act for the society thenceforth.

19. In order to any such society as is mentioned in the last preceding section obtaining registry under this Act, it shall be sufficient that the governing body file with the Registrar of Joint-stock Companies a memorandum showing the name of the society, the objects of the society, and the names, addresses and occupations of the governing body, together with a copy of the rules and regulations of the society certified as provided in section 3 and a copy of the report of the proceedings of the general meeting at which the registration was resolved on. Such societies to file memorandum, etc., with Registrar of Joint-stock Companies.

20. Any person may inspect all documents filed with the Registrar of Joint-stock Companies under this Act on payment of a fee of one rupee for each inspection, and any person may require a copy or extract of any document or any part of any document, to be certified by the Registrar, on payment of two annas for every hundred words of such copy or extract; and such certified copy Irspection of documents.

shall be *prima facie* evidence of the matters therein contained in all legal proceedings whatever.

To what societies Act applies.

21. The following societies may be registered under this Act:—charitable societies, societies established for the promotion of science, literature, or the fine arts, for instruction, the diffusion of useful knowledge, the foundation or maintenance of libraries or reading rooms for general use among the members or open to the public, or public museums and galleries of painting and other works of art, collections of natural history, mechanical and philosophical inventions, instruments, or designs.

[1][**21-A.** (*i*) Every society shall be inspected at least once in two years by the Registrar or an officer authorised by him in this behalf who shall be entitled to inspect the premises of any society and shall also be entitled to call for such information or explanation within such time as may be specified by him.

(*ii*) Where it appears to the Registrar that the affairs of a society call for investigation, the Registrar may appoint a certified auditor to investigate the affairs of such society and may fix his remuneration which shall be borne by the society.

21-B. Where default is made by a society in filing with the Registrar, any change in the memorandum of association, [2][or in filing with him the returns required by clauses (*a*) and (*b*) of section 5] the Registrar may, after calling upon such society to furnish details of such change [2][or to submit such returns] within a specified time and on the failure of the society to do so, treat the society as having become defunct, [2][and cause a notification of such decision to be published in the Official Gazette] whereupon the incorporation of the society under this Act shall cease:

Provided that the liability, if any, of the members of the governing body or the members of the society, as the case may be, shall continue and may be enforced as if the society had not become defunct.]

[3][**22.** The Government may make such rules as it thinks expedient for carrying out the purposes of this Act.]

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1. Sections 21-A and 21-B inserted by Act XXXI of 1943.
2. Inserted by Act XXVIII of 1945.
3. Added by Act V of 1939.

MYSORE ACT No. I OF 1906.

THE MYSORE VACCINATION ACT, 1906.

(As amended by Act No. VII of 1925.)

(PASSED ON THE 16TH DAY OF MARCH 1906.)

An Act to make Provision for Compulsory Vaccination in [1][the State of Mysore except Bellary District.]

WHEREAS it is expedient to make provision for compulsory vaccination in [1][the State of Mysore except Bellary District], His Highness the Maharaja is pleased to enact as follows :— Preamble.

1. (1) This Act may be called "The Mysore Vaccination Act, 1906." Short title.

(2) And it extends to the [1][whole of the State of Mysore except Bellary District].

[2][**2.** Vaccination shall be compulsory in all Municipalities constituted under the Mysore Municipal Act, 1906, and in the local area under the control of the Kolar Gold Fields Sanitary Board. Extent.

3. The Government may, by notification in the official Gazette, declare that vaccination shall be compulsory in any other local area from and after a date to be specified in such notification and Government may, in like manner, cancel or modify any such declaration.

4. The Government may make rules to regulate the vaccination of persons in the local areas where vaccination is or has been declared to be compulsory, and bye-laws for the purposes of this Act not inconsistent with these rules may be made from time to time with the approval of Government by a local body within whose local area, vaccination has been declared to be compulsory.

5. For every breach of a rule or bye-law under Section 4, the offender shall be liable to a fine not exceeding fifty rupees:

Provided that no penalty shall be imposed on any person by reason of non-vaccination, if he has already had small-pox].

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1. See the Mysore Adaptation of Laws Order, 1956.
2. Substituted by Act VII of 1925.

THE MYSORE TRAMWAYS ACT, 1906.

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(*Preliminary*)

MYSORE ACT No. II OF 1906.

THE MYSORE TRAMWAYS ACT, 1906.

(*As amended by Act No. X of 1916.*)

(PASSED ON THE 7TH DAY OF JULY 1906).

An Act to facilitate the Construction and to regulate the Working of Tramways in [1][the State of Mysore except Bellary District.]

WHEREAS it is expedient to facilitate the construction and to regulate the working of Tramways in [1][the State of Mysore except Bellary District]; His Highness the Maharaja is pleased to enact as follows:—

PRELIMINARY.

Short title and commencement.

1. (1) This Act may be called the Mysore Tramways Act, 1906; and

(2) It shall come into force at once.

Local extent.

2. It extends to the [1][whole of the State of Mysore except Bellary District].

Definitions.

3. In this Act, unless there is something repugnant in the subject or context,—

(1) "local authority" means a municipal committee, district board, or other authority legally entitled to, or entrusted by the Government with, the control or management of a municipal or local fund;

(2) "road" means the way of a road, street, thoroughfare, passage or place along or across which a tramway authorised under this Act is, or is intended to be laid, and includes the surface-soil and sub-soil of a road, and the footway, bermes, drains and ditches of a road, and any bridge, culvert or causeway forming part of a road;

(3) "road authority," in relation to a road, means—

(*a*) if a local authority maintains and repairs the road, then that authority;

1. See the Mysore Adaptation of Laws Order, 1958.

(*b*) if a local authority does not maintain and repair the road, and the road is neither vested in nor maintained and repaired by the Government, then the person in whom the road is vested; and

(*c*) if a local authority does not maintain and repair the road, and the road vested in or maintained and repaired by the Government, then the Government;

(4) "circle," in relation to a local authority or road-authority, means the area within the control of that authority;

(5) "tramway" means a tramway, or any part of a tramway, or any siding, turn-out, connection, line or track belonging to a tramway;

(6) "order" means an order authorising the construction of a tramway under this Act, and includes a further order substituted for, or amending, extending or varying, that order;

(7) "promoter" means a local authority or person in whose favour an order has been made, and includes a local authority or person on whom the rights and liabilities conferred and imposed on the promoter by this Act and by the order and any rules made under this Act as to the construction, maintenance and use of the tramway, have devolved;

(8) "undertaking" includes all movable and immovable property of the promoter suitable to and used by him for the purposes of the tramway;

(9) "carriage," in the case of a tramway on which steam-power or any other mechanical power is used, includes an engine worked on the tramway for the purpose of producing that power;

(10) "toll" includes any charge leviable in respect of the use of a tramway;

(11) "lessee" means a person to whom a lease has been granted of right of user of a tramway and of demanding and taking the authorised tolls;

(12) "District Magistrate" includes an officer empowered by the Government by name or by virtue of his office to discharge within any local area all

or any of the functions of a District Magistrate under this Act ;

(13) "District Court" means a principal Civil Court of original jurisdiction ;

(14) "Deputy Commissioner" means the chief officer in charge of the revenue administration of a district, and includes an officer empowered by the Government by name or by virtue of his office to discharge within any local area the functions of a Deputy Commissioner under this Act ; and

(15) "prescribed" means prescribed by rules made by the Government under this Act.

ORDERS AUTHORISING THE CONSTRUCTION OF TRAMWAYS.

Application for and consent necessary to making of order.

4. (1) The Government may make an order authorising the construction of a tramway in a circle on application made—

(*a*) by the local authority of the circle with the consent of the road-authority of any road or part of a road which is to be traversed by the tramway and of which the local authority is not itself the road authority; or

(*b*) by any person with the consent of the local authority of the circle, and of the road-authority of any road or part of a road which is to be traversed by the tramway and of which the local authority is not the road-authority.

(2) A local authority shall not make an application for an order, or be deemed to consent to an application being made by any person for an order, unless the making of the application or the giving of the consent has been approved by the local authority in manner prescribed.

Consent of local or road-authority not necessary in certain cases.

5. When it is proposed to lay a tramway in two or more circles, and a local authority or road-authority having control in either or any of the circles does not consent thereto, or attaches conditions to its consent, the Government may, nevertheless, make an order authorising the construction of the tramway in the circle, or by the order impose on the promoter any conditions which it deems fit,

if, after considering the reasons of the authority for withholding its consent or attaching the conditions thereto, it is satisfied that the construction of the tramway in the circle is expedient, or, as the case may be, that the conditions attached by the authority to its consent ought not to be imposed.

Procedure for making order.

6. (1) The Government on receiving an application shall consider it, and, if satisfied as to the propriety of proceeding thereon, publish in the official Gazette, and in such other manner as it deems sufficient for giving information to persons interested, a draft of a proposed order authorising the construction of the tramway.

(2) A notice shall be published with the draft stating that any objection or suggestion which any person may desire to make with respect to the proposed order will, if submitted to the Government on or before a date to be specified in the notice, be received and considered.

(3) If, after considering any objections or suggestions which may have been made with respect to the draft on or before the date so specified, the Government is of opinion that the application should be granted, with or without addition or modification, or subject or not to any restriction or condition, it may make an order accordingly.

(4) Every order authorising the construction of a tramway shall be published in the official Gazette in English and in Kannada; and that publication shall be conclusive proof that the order has been made as required by this section.

Contents of order.

7. (1) An order made under section 6 shall empower the promoter therein specified to construct and maintain the tramway therein described in the manner therein provided, and shall specify the time within which the tramway shall be commenced and the time within which it shall be completed and opened for public traffic.

(2) The order may also provide, in manner consistent with this Act, for all or any of the following among other matters, that is to say:—

(*a*) a period before the expiration of which the tramway shall not be commenced, and the conditions subject to which the local authority, when it is not itself the promoter, may, within that period,

elect to be substituted in the place of the promoter in respect of the undertaking or of so much thereof as is within its circle; and the limits of time within which, and the terms upon which, the local authority may after the tramway has been constructed, require the promoter to sell to it the undertaking or so much thereof as is within its circle;

(*b*) the acquisition by the promoter of land for the purposes of the tramway, and the disposal by him of land which has been acquired but is no longer required for those purposes;

(*c*) the conditions subject to which roads may be opened and broken up for the purposes of the construction or maintenance of the tramway or any part thereof, and the method of, and materials to be used in, the re-instating of the roads, and the approval of the method and materials by the Government or the road-authority before the commencement of the work;

(*d*) the conditions on which the tramway may be constructed over a bridge or across a railway or tramway when the carriageway over the bridge is to form part of the tramway or when the tramway is to cross a railway or another tramway on the level;

(*e*) the space which shall ordinarily intervene between the outside of the carriageway on either side of a road whereon the tramway is to be constructed and the nearest rail of the tramway, and the conditions on which a smaller space may be permitted;

(*f*) the gauge of the tramway, the rails to be used, and the mode in which and the level at which they shall be laid and maintained; and the adoption and application by the promoter of such improvements in the rails, and in their situation, and in the sub-structure upon which they rest, as the Government may from time to time require;

(*g*) the portion of the road or roads traversed by the tramway to be kept in repair by the promoter; the maintenance by the promoter, to the satisfaction of the Government or the road-authority, or both,

of that portion of the road or roads; and the liability of the promoter, on the requisition of the Government, from time to time to adopt and apply such improvements in the tramway as the Government may consider necessary or desirable for the safety or convenience of the public, and to alter the position or level of the tramway to suit future alterations in the road or roads;

(*h*) the application of material excavated by the promoter in the construction or maintenance of the tramway;

(*i*) the provision of such crossings, passing-places, sidings, junctions and other works, in addition to those specified in or authorised by the order, as may from time to time be necessary or convenient to the efficient working of the tramway;

(*j*) the powers which may from time to time be exercised by the Government, the local authority, the road-authority or any person in respect of sewers, drains, telegraph-lines, gas-pipes, water-pipes or other things in or on land occupied by the tramway; the notice (if any) to be given of the intended exercise of those powers; the manner in which the powers shall be exercised; and the extent to which the tramway and the traffic thereon may be interfered with in the exercise thereof;

(*k*) the conditions subject to which the promoter may from time to time interfere with or alter or require the alteration of the position of drains (not being sewers or main drains), telegraph-lines, gas-pipes, water-pipes, or other things as aforesaid;

(*l*) the provision of a temporary tramway in place of a part of a tramway which has been removed or of which the use has been discontinued, by reason of the execution of any work affecting a road along which the part of the tramway was laid or by reason of the use of the road being interrupted by floods or other cause;

(*m*) the motive power to be used on the tramway, and the conditions on which steam-power or any other mechanical power may be used;

(*n*) the nature, dimensions, fittings, appliances and apparatus of the carriages to be used on the tramway, and the inspection and examination thereof by officers of the Government or the local authority, and the liability of the promoter or lessee, on the requisition of the Government, from time to time, to adopt and apply such improvements in the carriages, and in the fittings, appliances and apparatus, as the Government may consider necessary or desirable for the safety or convenience of the public;

(*o*) the traffic which may be carried on the tramway, the traffic which the promoter or lessee shall be bound to carry, and the traffic which he may refuse to carry; the tolls to be leviable by the promoter or lessee, and the periodical revision thereof by the Government; and the regulation of the traffic and of the levy of the tolls;

(*p*) the use of the tramway free of toll by the local authority, with its own carriages, for specified purposes, during specified hours, with power to the local authority to make such sidings, and other works as may be necessary for communication between its premises and the tramway;

(*q*) the conditions subject to which the promoter may transfer the undertaking, or any part thereof, by sale, mortgage, lease, exchange or otherwise; and the conditions subject to which the local authority may be the transferee;

(*r*) the performance by the Government or by the local authority or road-authority of any work required by the Act or the order to be done by the promoter; and

(*s*) the penalty to be incurred by the promoter or lessee for failure to observe any condition or direction contained in the order, and the application of the penalty when recovered.

(3) The Government may, in providing in the order for the acquisition of land for the purposes of a tramway of which the promoter is not a company, direct that land may be acquired for the promoter under the provisions of the Mysore Land Acquisition Act, VII of

1894, in the same manner and on the same conditions as it might be acquired for the purposes of the tramway if a company were the promoter.

(4) The order shall imply the condition—

(*a*) in the case of a tramway of which a local authority is the promoter, that a lease thereof shall be granted only in manner by this Act provided ; and

(*b*) in the case of a tramway of which a local authority is not the promoter, that a lease thereof shall be only of the right of user and of demanding and taking the authorised tolls, and shall not confer or impose on the lessee any of the powers or duties of the promoter in respect of the construction or maintenance of the tramway.

Further order.

8. (1) The Government may, on the application of the promoter, revoke, amend, extend or vary the order by a further order.

(2) An application for a further order shall be made in the same manner and subject to the same conditions as an application for an order.

(3) The Government may, in its discretion, either grant or reject the application.

(4) If it grants the application, it shall make the further order in the same manner as an order, except that no addition to, or modification of, the rights, powers and authorities asked for in the application, or restriction or condition with respect thereto, shall be made or imposed by the further order without the consent in writing of the promoter.

Power to authorise joint work by local authorities.

9. (1) Subject to, and in accordance with, the provisions of this Act, the Government may, on a joint application, or on two or more separate applications, make an order empowering two or more local authorities, respectively, jointly to construct the whole, or separately to construct parts, of a tramway, and jointly or separately to own the whole or parts thereof.

(2) All the provisions of this Act which relate to the construction of tramways shall extend and apply to the construction of the whole and the separate parts of the

tramway, and the form of the order may be adapted to the circumstances of the case.

Cessation of powers given by an order.

10. (1) If a promoter authorised by an order to construct a tramway—

(*a*) does not within the time specified in the order substantially commence the construction of the tramway, or

(*b*) having commenced the construction, suspends it without a reason sufficient in the opinion of the Government to warrant the suspension, or

(*c*) does not within the time specified in the order complete the tramway and open it for public traffic,

the following consequences shall ensue :—

(i) the powers given by the order to the promoter for constructing the tramway and otherwise in relation thereto, shall, unless the Government, by special direction in writing, prolongs the time or condones the suspension, cease to be exercised except as to so much of the tramway as is then completed ;

(ii) as to so much of the tramway as is then completed, the Government may either permit, or refuse to permit, the powers given by the order to continue ;

(iii) if the Government refuses to permit the powers to continue, then so much of the tramway as is then completed may be dealt with, under the provisions of this Act relating to the discontinuance of tramways, as a tramway of the working whereof the discontinuance has been proved to the satisfaction of the Government.

(2) A notification published by the Government in the official Gazette to the effect that on a date specified in the notification the construction of a tramway had not been substantially commenced or a tramway had not been completed and opened for public traffic, or that the construction of a tramway had been suspended without sufficient reason, shall, for the purposes of this section, be conclusive proof of the matter stated therein.

(Construction and Maintenance of Tramways. Traffic on Tramways)

CONSTRUCTION AND MAINTENANCE OF TRAMWAYS.

Mode of formation of tramway.

11. A tramway shall be constructed and maintained in the manner provided by the order.

Inspection of tramway before opening.

12. A tramway, or portion or extension of, or addition to, a tramway, shall not be opened for public traffic until an engineer appointed in this behalf by the Government has inspected it and certified it to be fit for such traffic.

Agreement between road-authority and promoter as to repair of roadway.

13. Subject to the provisions of any order for the time being in force with respect to the matters mentioned in section 7, sub-section (2), clause (*g*), the road-authority and the promoter may from time to time enter into agreements as to the keeping in repair of the whole or a part of a road traversed by a tramway, and as to the proportion to be paid by either of them of the expense of keeping the road or part in repair.

TRAFFIC ON TRAMWAYS.

Rights of promoters and the public over tramways.

14. (1) The promoter of a tramway shall, subject to the provisions of sub-section (2) and to the other provisions of this Act and of the order, have the exclusive use of the tramway for carriages with flange-wheels or other wheels suitable to run on the rail described in the order as the rail to be used on the tramway :

Provided that nothing in this Act or in the order or any rule made under this Act shall affect the right of any person authorised to use a tramway or railway to pass across a tramway constructed under this Act with carriages having wheels suitable to run on the rail thereof.

(2) The public shall have a right to pass along or across any part of a road along or across which a tramway is constructed, whether on or off the tramway, with carriages not having flange-wheels or other wheels suitable to run on the rail of the tramway : Provided—

(*a*) that this sub-section shall not apply where the tramway is constructed on land the right to the exclusive possession of which has been acquired by the promoter; and

(*b*) that the Government may by an order authorise the construction of a tramway on any part of a road with rails raised above the surface of the road, if it is satisfied that the convenience of the public will not be injuriously affected thereby.

Tolls leviable by promoter or lessee.

15. (1) The promoter or lessee may demand and take, in respect of the tramway, tolls not exceeding the limits specified in or determinable under the order, or, if the order contains no provision in this behalf, then such sums as may from time to time be fixed by the promoter or lessee with the previous sanction of the Government.

(2) A list of all the tolls authorised to be levied shall be exhibited, in such languages as the District Magistrate may direct, in a conspicuous place inside and outside each of the carriages used upon the tramway.

Carriage of dangerous or offensive goods.

16. (1) A person shall not be entitled to carry or to require to be carried, on a tramway constructed under this Act, any goods of a dangerous or offensive nature.

(2) A person taking such goods with him on the tramway shall, before entering the carriage, give notice of their nature to the servant of the promoter or lessee in charge of the carriage.

(3) A person sending such goods by the tramway shall distinctly mark their nature on the outside of the package containing them, or otherwise give notice thereof in writing to the servant of the promoter or lessee with whom he leaves them for the purpose of their being sent by the tramway.

(4) Any servant of the promoter or lessee may refuse to carry upon the tramway a parcel which he suspects to contain goods of a dangerous or offensive nature, and, if any such parcel has been received for the purpose of being carried upon the tramway, may stop the transit thereof until he is satisfied as to the nature of its contents.

(5) Where a servant of the promoter or lessee refuses under sub-section (4) to carry a parcel which has been received for the purpose of being carried upon the tramway, he shall, as soon as may be, give notice of his refusal to the consignor or consignee if he refuses at a time when neither of them is present.

(*Licenses to use Tramways*)

LICENSES TO USE TRAMWAYS.

Grants to third parties of licenses to use tramway in certain events.

17. If, at any time after a tramway or part of a tramway has been for three years opened for public traffic in a circle, the local authority of the circle represents in writing to the Government that the public is deprived of the full benefit of the tramway or of the part thereof, the Government may, if after considering any statement which the promoter or lessee or both may desire to make, and after such further enquiry as it deems necessary, it is satisfied as to the truth of the representation, grant a license to any person to use the tramway conformably to this Act and to the order and the rules made under this Act, subject to the following provisions, namely :—

(*a*) the license shall be for a period not less than one year or more than three years from the date of the license, but the Government may in its discretion renew it;

(*b*) the license shall be to use the whole of the tramway for the time being opened for public traffic, or such part or parts of the tramway as the Government, having regard to the cause for granting the license, thinks fit;

(*c*) the license shall specify the number of carriages which the licensee shall run upon the tramway, the mode in which, and times at which, the carriages shall be run, the tolls to be paid to the promoter or lessee by the licensee for the use of the tramway, and the tolls, being those for the time being leviable by the promoter or lessee, which the licensee may demand and take for the use of his carriages;

(*d*) the licensee and his officers and servants shall permit one person, duly authorised for that purpose by the promoter or lessee to travel free of toll in or upon each carriage of the licensee run upon the tramway for the whole or any part of a journey;

(*e*) any provision of this Act or of the order or rules made under this Act, relating to the functions of a servant of a promoter or lessee shall be construed, so far as may be, as referring to a servant of the licensee; and

(*f*) the Government may revoke, alter or modify the license for any cause sufficient in its opinion to warrant the revocation, alteration or modification thereof.

Licensee to give to promoter or lessee an account of traffic.

18. A licensee shall, on demand, give to an officer or servant authorised in that behalf by the promoter or lessee an exact account in writing, signed by the licensee, of the number of passengers, or number or quantity of goods, conveyed by any and every carriage used by him on the tramway.

Discontinuance of Tramways.

Cessation of powers of promoter and lessee, on discontinuance of tramway.

19. If it is proved to the satisfaction of the Government, at any time after the opening of a tramway for public traffic, that the working of the tramway, or any part thereof, has been practically discontinued, for the space of three months, without a reason sufficient, in the opinion of the Government, to warrant the discontinuance, the Government, if it thinks fit, may, by notification in the official Gazette, declare that the powers of the promoter and of the lessee, if any, in respect of the tramway or the part thereof of which the working has been so discontinued, shall, from the date of the notification, be at an end; and thereupon the said powers shall cease and determine, except in so far as they may be purchased by a local authority in manner by this Act provided.

Powers of road-authority on cessation of powers of promoter.

20. (1) Where a notification has been published under section 19, the road-authority may, at any time after the expiration of two months from the date of the notification, remove the tramway or part of the tramway of which the working has been so discontinued, and use the materials thereof in reinstating the road.

(2) The promoter shall pay to the road-authority the cost incurred by that authority in removing the tramway or the part thereof and in reinstating the road.

(3) The cost shall be certified by an officer of the road-authority, and his certificate, countersigned by the District Magistrate, shall be conclusive proof as to the cost incurred.

(Insolvency of Promoter)

(4) If the promoter does not pay the amount so certified within one month after the delivery to him of the certificate or of a copy thereof, the road-authority may, without any previous notice to the promoter and without prejudice to any other remedy which it may have for the recovery of the amount, sell and dispose of such materials of the tramway or part thereof removed as it has not used in reinstating the road, either by public auction or by private sale, and for such sum or sums, and to such person or persons, as it thinks fit, and may, out of the proceeds of the sale, pay and reimburse itself the amount of the cost aforesaid and of the expenses of the sale, and shall pay over the residue, if any, of the proceeds of the sale to the promoter.

INSOLVENCY OF PROMOTER.

Proceedings in case of insolvency of promoter.

21. (1) If, at any time after the opening of a tramway in a circle for public traffic, it appears to the road-authority or local-authority of the circle that the promoter of the tramway is insolvent, so that he is unable to maintain the tramway, or to work it with advantage to the public, and either of those authorities makes a representation to that effect to the Government, the Government may, if after considering any statement which the promoter may desire to make, and after such further enquiry as it deems necessary, it is satisfied as to the truth of the representation, declare, by notification in the official Gazette, that the powers of the promoter shall, at the expiration of six months from the publication of the notification, be at an end; and the powers of the promoter shall cease and determine at the expiration of that period, except in so far as they may be purchased by a local authority in manner by this Act provided.

(2) Where a notification has been published under sub-section (1), the road-authority may, at any time after the expiration of six months from the date thereof, remove the tramway in the same manner, and subject to the same provisions as to the payment of the cost of the removal and to the same remedy for recovery of the cost, in every respect as in cases of removal under section 20.

(*Purchase of Tramways*).

PURCHASE OF TRAMWAYS.

Future purchase of undertaking by local authority.

22. (1) Where the promoter of a tramway in a circle is not the local authority, the local authority, with the previous sanction of the Government, may—

(*a*) within such limits of time as may be specified in this behalf in the order, or

(*b*) if a time was not specified in the order, then within six months after the expiration of a period of twenty-one years from the date of the order, and within six months after the expiration of every subsequent period of seven years, or

(*c*) within two months after the publication of a notification under section 19 or within six months after the publication of a notification under section 21,

by notice in writing, require the promoter to sell to the local authority his undertaking or the part thereof which is within the circle of the local authority ; and thereupon the promoter shall sell the same upon the terms specified in the order, or if the terms were not specified in the order, then upon the terms of paying the then value of the undertaking or of the part thereof, exclusive of any allowance for past or future profits of the undertaking or any compensation for compulsory sale of other consideration whatsoever.

(2) A requisition shall not be made under sub-section (1) unless the making thereof has been approved by the local authority in manner prescribed.

(3) When a sale has been made under this section, all the rights, powers and authorities of the promoter in respect of the undertaking or part thereof sold or, where a notification has been published under section 19 or section 21, all the rights, powers and authorities of the promoter previous to the publication of the notification in respect of the undertaking or part thereof sold, shall be transferred to the authority to whom the undertaking or part has been sold, and shall vest in, and may be exercised by, that authority in the same manner as if the tramway had been constructed by it under an order made under this Act.

(4) Subject to, and in accordance with, the preceding provisions of this section, two or more local

authorities may jointly purchase an undertaking or so much thereof as is within their circles.

WORKING OF TRAMWAYS OWNED BY LOCAL AUTHORITIES.

Lease of, or working of, tramway by local authority.

23. (1) When a local authority has under the authority of an order completed a tramway, or has under the provisions of this Act or of an order acquired possession of a tramway, it may, by a lease to be approved by the Government, let to any person the right of user of the tramway and of demanding and taking the authorised tolls.

(2) On the determination of a lease the local authority may from time to time let the right for such further term and on such conditions as the Government may approve.

(3) Every lease made under this section shall imply a condition of re-entry if at any time after the making thereof it is proved to the satisfaction of the Government that the lessee has practically discontinued the working of the tramway leased, or of any part thereof, for the space of one month without a reason sufficient, in the opinion of the Government, to warrant the discontinuance.

(4) Notice of the intention of the local authority to make a lease shall be given in manner prescribed.

(5) If the local authority cannot by means of a lease obtain what it deems to be a fair rent for the tramway, it may itself, with the previous sanction of the Government and for such term as the Government directs, place and run carriages upon the tramway, and demand and take the authorised tolls in respect of the use of the carriages.

RULES.

Power to make rules.

24. (1) In addition to any other power to make rules expressly or by implication conferred by this Act the Government may make rules consistent with this Act—

(*a*) as to the form in which an application for an order shall be made ;

(*Rules*)

(*b*) as to the costs to be paid by an applicant in respect of an order and the time when, and the place where, those costs shall be paid;

(*c*) as to the payment of money or lodgement of securities, by way of deposit, by the applicant for an order before the order is published under section 6, sub-section (4), or a further order is made under section 8; the investment of money so paid; the disposal of interest or dividends from time to time accruing due on money or securities so paid, lodged or invested; the application of the money or securities or the produce thereof to the discharge of any liability incurred by the promoter; and the forfeiture, repayment or return of the money or securities;

(*d*) as to the plans and sections of any works to be deposited by applicants for orders or by promoters;

(*e*) for regulating the use of steam-power or any other mechanical power on a tramway;

(*f*) as to any matter specified in section 7, sub-section (2), clauses (*c*), (*d*), (*e*), (*j*) and (*k*), as a matter which may be provided for in an order, when that matter has not been so provided for, or has not, in the opinion of the Government, been effectually so provided for;

(*g*) as to the periodical submission, by promoters, lessees and licensees, of accounts of traffic and receipts to the Government or as the Government directs, and as to the forms in which those accounts are to be submitted;

(*h*) as to the accidents of which report is to be made to the Government or as the Government directs;

(*i*) as to any matter respecting which rules may be made under this section by a local authority or a promoter or lessee; and

(*j*) generally, as to any other matter or thing in respect of which it may seem to the Government to be expedient to make rules for carrying out the purposes of this Act.

(2) A local authority may, from time to time, with the previous sanction of the Government, make rules consistent with this Act and with the order and

any rules made by the Government under this Act for regulating—

(*a*) the rate of speed to be observed in travelling upon a tramway within the circle of the local authority ;

(*b*) the use of animal power on the tramway ;

(*c*) the distances at which carriages using the tramway are to be allowed to follow one after the other ;

(*d*) the stopping of carriages using the tramway and the notice to be given to the public of their approach ;

(*e*) the manner in which carriages using the tramway after sunset and before sunrise are to be lighted ;

(*f*) the traffic on roads along or across which the tramway is laid ;

(*g*) the number of passengers which may be carried in any carriage ;

(*h*) the licensing and control of drivers, conductors and other persons having charge of the carriages of the promoter or lessee or a licensee ; and

(*i*) generally, the mode of use of the tramway.

(3) The promoter or lessee of a tramway may, from time to time, with the previous sanction of the Government, make rules consistent with this Act and with the order and any rules made under this Act—

(*a*) for preventing the commission of any nuisance in or upon any carriage, or in or against any premises, belonging to him ; and

(*b*) for regulating the travelling in any carriage belonging to him.

(4) The Government may cancel any rule made by a local authority or by a promoter or lessee under this section.

Power to impose penalty by rule.

25. The authority making any rule under section 24 may direct that a breach of it shall be punishable with fine which may extend—

(*a*) if the authority making the rule is the Government, to two hundred rupees, and

(*b*) if that authority is a local authority or a promoter or lessee, to twenty rupees ; and when the breach is a continuing breach, with a further fine which may extend—

(*c*) if the authority making the rule is the Government, to fifty rupees, and

(*d*) if that authority is a local authority or a promoter or lessee, to five rupees, for every day after the first during which the breach continues.

Procedure for making, and publication of rules.

26. (1) Every authority having power to make rules under any section of this Act shall, before making the rules, publish a draft of the proposed rules for the information of persons likely to be affected thereby.

(2) The publication shall be made, in the case of rules made by the Government, in such manner as may in its opinion be sufficient for giving information to persons interested, and, in the case of rules made by a local authority or by a promoter or lessee, in manner prescribed.

(3) There shall be published with the draft a notice specifying a date, not earlier than the expiration of one month after the date of publication, at or after which the draft will be taken into consideration.

(4) The authority shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) The publication in the official Gazette of a rule purporting to be made under this Act shall be conclusive proof that it has been duly made.

OFFENCES.

Penalty for failure of promoter, lessee or licensee to comply with Act or order.

27. If a promoter—

(*a*) constructs or maintains a tramway otherwise than in accordance with the order, or

(*b*) opens the tramway for traffic, or permits it to be so opened, before it has been inspected and certified in manner required by section 12, or

(*c*) fails to observe any requirement or condition of the order for neglect or breach whereof no penalty has been expressly provided in the order,

or if a promoter, lessee or licensee runs a carriage on a tramway otherwise than in accordance with the order, he shall (without prejudice to the enforcement of specific performance of the requirements of this Act or of the order, or to any other remedy which may be obtained against him in a Court of Civil Judicature), on complaint made by the Government or by the local authority or road-authority or by the District Magistrate or,

with the previous sanction of the District Magistrate, by any person injuriously affected by the act or omission, be punished with fine which may extend to two hundred rupees, and in the case of a continuing offence to a further fine which may extend to fifty rupees for every day after the first during which the offence continues to be committed.

Penalty for obstructing promoter in exercise of his powers.

28. If any person without lawful excuse, the burden of proving which shall lie upon him, wilfully obstructs any person acting under the authority of the promoter in the lawful exercise of his powers in constructing or maintaining a tramway, or injures or destroys any mark made for the purpose of setting out the line of the tramway, he shall be punished with fine which may extend to fifty rupees.

Penalty for interfering with tramway.

29. If any person without lawful excuse, the burden of proving which shall lie upon him, wilfully does any of the following things, namely :—

(*a*) interferes with, removes or alters any part of a tramway constructed under this Act or of the works connected therewith, or

(*b*) places or throws upon or across any such tramway any wood, stone, refuse or other thing, or

(*c*) does anything in such a manner as to obstruct any carriage using any such tramway, or

(*d*) abets within the meaning of the Indian Penal Code the doing of, or attempts to do, anything mentioned in clause (*a*), clause (*b*), or clause (*c*),

he shall (without prejudice to any other remedy which may be obtained against him in a Court of Civil Judicature) be punished with fine which may extend to one hundred rupees.

Penalty for using tramway with carriage having flange-wheels.

30. If any person, except under a lease from, or by agreement with, the promoter, or under license from the Government granted under this Act uses on a tramway, otherwise than as permitted by section 14, a carriage having flange-wheels or other wheels suitable to run on the rail of the tramway, he shall be punished with fine which may extend to two hundred rupees.

(Offences)

Penalty for evading payment of proper toll.

31. (1) If any person travelling or having travelled in a carriage of the promoter or lessee or of a licensee evades or attempts to evade payment of toll, or if any person having paid toll for a certain distance wilfully proceeds in any such carriage beyond that distance and does not pay the additional toll for the additional distance or attempts to evade payment thereof, or if any person wilfully refuses or neglects on arriving at the point to which he has paid toll to quit the carriage, he shall be punished with fine which may extend to ten rupees.

(2) When a person commits an offence under this section and refuses on demand of a servant of the promoter, lessee or licensee to give his name and residence, or gives a name or residence which the servant has reason to believe to be false, he may be arrested and taken to the nearest police station by the servant or any person whom the servant may call to his aid.

(3) When the person is taken to the police station he shall with the least possible delay be forwarded to the nearest Magistrate, unless his true name and residence are ascertained, in which case he shall be released on his executing a bond for his appearance before a Magistrate, if so required.

Penalty for taking or sending dangerous or offensive goods without giving notice.

32. If any person takes or sends by a tramway any goods of a dangerous or offensive nature without giving the notice required by section 16, he shall be punished with fine which may extend to fifty rupees.

Penalty for licensee not giving to promoter or lessee an account of traffic or giving false account.

33. (1) If a licensee fails on demand to give the account mentioned in section 18, or, with intent to evade the payment of tolls, gives a false account when he is called upon to give an account under that section, he shall be punished with fine which may extend to fifty rupees.

(2) The fine shall be in addition to any tolls payable by the licensee to the promoter or lessee in respect of the passengers or goods conveyed by the carriage or carriages used by the licensee on the tramway.

Saving of prosecution under other laws.

34. Nothing in this Act shall prevent a person from being prosecuted under any other law for an act or omission which constitutes an offence against this Act or the rules made under it, or from being liable under that other

law to any other or higher punishment or penalty than that provided by this Act or the rules made under it : Provided that a person shall not be punished twice for the same offence.

SETTLEMENT OF DIFFERENCES.

Differences between promoters or lessees and authorities.

35. (1) If any difference arises between the promoter or lessee on the one hand and the Government or the local authority, or the road-authority. or a person having the charge of any sewers, drains, telegraph-lines, gas-pipes, water pipes, or other things in or on land occupied by the tramway, on the other hand, with respect to any interference or control exercised or claimed to be exercised by, or on behalf of, either party by virtue of this or any other Act, or of the order or the rules made under this Act, or with respect to the propriety of, or the mode of, the execution of any work, or with respect to any compensation to be made by or to the promoter or lessee, or on the question whether any work is such as ought reasonably to satisfy the Government or the road-authority or both, or with respect to any other subject or thing regulated by, or comprised in, this Act or the order or the rules made under this Act, and not otherwise expressly provided for therein, the matter in difference shall, except where the parties elect to proceed under section 523 of the Code of Civil Procedure, be settled, on the application of either party, by a referee.

(2) Where the difference is—

(*a*) between the promoter or lessee on the one hand and the Government, either as such or as the road-authority, on the other, or

(*b*) between the promoter on the one hand and the local authority on the other, with respect to the sum to be paid by the local authority for an undertaking or part of an undertaking which that authority has required the promoter to sell under section 22,

the referee shall be the District Court within the jurisdiction of which the tramway is situate, or, where the tramway is within the jurisdiction of more than one District Court, the District Court within the jurisdiction of which the greater part of the tramway is situate.

(3) In other cases the referee shall be appointed by the Government.

(4) Except where the referee is the District Court, the powers and procedure of the referee may be prescribed.

(5) In the case of a difference between a promoter on the one hand and a local authority on the other, with respect to the sum to be paid by the local authority for an undertaking or part of an undertaking which that authority has required the promoter to sell under section 22, an appeal shall lie to the High Court from the award of the referee as from an original decree of the District Court.

(6) In the case of every other difference the award of the referee shall be final.

Recovery of Tolls.

Recovery of moneys due from promoters and in certain cases, from lessees.

36. Any of the following moneys, namely, any rent due to a local authority from a lessee, any penalty recoverable from a promoter or lessee under an order, any sum payable by a promoter or lessee under an award of a referee the cost of the performance under this Act by the Government or by a local authority or road-authority of any work required by this Act or by an order to be done by a promoter, and the cost incurred by a road-authority in removing a tramway and reinstating a road under this Act may, without prejudice to any other remedy that the authority to which the money is due may have by suit or otherwise, be recovered by that authority, on application made in this behalf to the Deputy Commissioner, as if the sum due were an arrear of land revenue due by the promoter or lessee or his surety (if any) :

Provided that nothing in this section shall authorise the arrest of the promoter or lessee or his surety in execution of any process issued by the Deputy Commissioner.

Recovery of tolls from licensees.

37. (1) If a licensee fails to pay on demand the tolls due for the use of a tramway, the promoter or lessee to whom the tolls are due may, without prejudice to the remedy which he may have by suit, apply to a Magistrate to recover the amount of the tolls, and the Magistrate may, after giving notice to the licensee if possible and allowing him an opportunity of being heard, proceed to recover the amount by distress and sale of any carriages or other

movable property of the licensee which may be found on the tramway or on premises connected therewith.

(2) When a licensee has failed to pay on demand the tolls due from him, the promoter or lessee to whom the tolls are due may seize any carriage or other movable property of the licensee on the tramway or on premises connected therewith, and detain the same for forty-eight hours unless the tolls are sooner paid.

(3) When application is made to a Magistrate under sub-section (1), he may make an *interim* order of distraint pending his final decision.

Recovery of tolls from passengers.

38. Any toll due to a promoter, lessee or licensee from a passenger may be recovered either by suit or, on application to a Magistrate having jurisdiction within any local area in which any part of the tramway is laid, by distress and sale of any movable property belonging to the passenger within the local limits of the jurisdiction of the Magistrate.

SAVINGS.

Promoter to have right of user only.

39. (1) Notwithstanding anything contained in this Act, or in an order or any rule made under this Act, a promoter shall not acquire any right other than that of user only over a road along or across which he lays a tramway, nor shall anything contained in this Act, or in an order or any rule made under this Act, exempt the promoter of a tramway, or any other person using the tramway, from the payment of such charges as may lawfully be levied in respect of the use of a road or bridge along or across which the tramway is laid.

(2) The Government may, if it thinks fit, fix rates at which a promoter, lessee or licensee may compound for the charges payable in respect of the use of a road or bridge.

Saving of power over roads traversed by tramways.

40. (1) Nothing in this Act, or in an order or any rule made under this Act, shall take away or abridge any power which a road-authority, local authority or other person has by law to break up, widen, alter, divert or improve a road, railroad or tramway along or across which a tramway is laid.

(Supplemental Provisions)

(2) The road-authority, local authority, or other person executing any work referred to in sub-section (1) shall not be liable to pay to a promoter, lessee or licensee any compensation for injury done to a tramway by the execution of the work or for loss of traffic occasioned by the reasonable use of any power lawfully exercised for the execution thereof.

Saving of power of local authority and police to regulate traffic on roads.

41. Nothing in this Act, or in an order or any rule made under this Act, shall affect the powers of a local authority or of a Magistrate or police officer to regulate the passage of traffic along or across a road along or across which a tramway is laid ; and the authority, Magistrate or officer aforesaid may exercise its or his powers as well on as off the tramway and with respect as well to the traffic of a promoter, lessee or licensee as to the traffic of other persons.

SUPPLEMENTAL PROVISIONS.

Promoters, lessees and licensees to be responsible for all injuries.

42. A promoter, lessee or licensee shall be answerable for all injuries happening through his act or default, or through the act or default of any person in his employment, by reason or in consequence of any of his carriages or works and shall save harmless all authorities and persons collectively and individually, and their officers and servants, from all damages and costs in respect of injuries so happening.

Want of funds not a sufficient reason for default.

43. For the purposes of this Act, want of funds shall not be deemed to be a sufficient reason for the suspension of the construction, or the discontinuance of the working, of a tramway by a promoter or lessee.

Power to exempt from municipal taxation.

44. When a tramway is constructed under this Act, within the limits of a municipality, the Government may exempt the animals, plant, rolling-stock, yards, workshops, engine-sheds and depots of the promoter, lessee or licensee, for such period as it thinks fit, from all or any municipal taxes leviable within those limits.

Application by local authorities of local funds to tramways.

45. (1) The fund to or with the control or management of which the local authority of a municipality or district is entitled or entrusted shall, notwithstanding anything in any enactment respecting the purposes to which

that fund may be applied, be applicable, subject to the control of the Government, to the payment of expenses incidental to the exercise of the powers and functions which may be vested in or exercised by a local authority under this Act.

(2) The fund shall also be applicable, with the previous sanction of the Government, to a guarantee of the payment of interest on money to be applied, with the concurrence in writing of the local authority, within the limits of the local area under its control, to any of the purposes to which the fund might be applied by the local authority under sub-section (1).

Prohibition of construction of tramways except under this Act.

46. (1) No tramway shall be constructed for public traffic except in pursuance of an order made under this Act.

(2) A person constructing a tramway in contravention of sub-section (1) of this section,

or maintaining or using for public traffic a tramway otherwise than in pursuance of an order made under this Act, shall be liable, on the complaint of the Government or local authority, to double the penalty to which a promoter acting otherwise than in accordance with an order is liable under section 27.

Transfer of control on exclusion of local area from circle of local authority.

47. If at any time a local area comprising a tramway to which this Act or any part thereof or any rule thereunder applies, ceases to be included in the circle of a local authority, the functions of that authority under this Act or the part thereof or the rule thereunder and under the order (if any), shall, in respect of that local area, devolve on the Government or, if the Government so directs, on the local authority of the circle in which the tramway has been included.

Special provision in regard to tramways constructed by Government.

[1][**47A.** (1) Notwithstanding anything contained in this Act, it shall be lawful for the Government at any time—

(*a*) to construct a tramway within any area to be worked by steam or other mechanical or electrical power;

1. Inserted by Act X of 1916.

(Supplemental Provisions)

(*b*) to retain the management and maintenance of any such tramway, or to entrust the same in whole or in part to any agency it thinks fit, or to resume the same from such agency ;

(*c*) to prescribe, by notification in the official Gazette, rules having the force of law, for the proper management and maintenance of any such tramway and for the regulation of all matters and things connected therewith, and to affix a penalty not exceeding two hundred rupees for the infringement of any such rule.

(2) The provisions of the preceding sections of this Act shall not apply to any such tramway as is mentioned in sub-section (1) except to the extent, if any, to which the same may be applied by Government from time to time, by notification published in the official Gazette, and subject to such modifications, if any, as may be directed in such notification.]

Powers of Government exercisable from time to time.

48. All powers conferred by this Act on the Government may be exercised from time to time as occasion requires.

THE MYSORE MINES ACT, 1906.

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(Preliminary)

MYSORE ACT No. IV OF 1906.

THE MYSORE MINES ACT, 1906.

(As amended by Acts IX of 1914 and VII of 1915.)

(PASSED ON THE 24TH DAY OF JULY 1906.)

An Act to consolidate and amend the law relating to Mines in [1][the State of Mysore except Bellary District].

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to Mines in [1][the State of Mysore except Bellary District]; His Highness the Maharaja is pleased to enact as follows:—

PRELIMINARY.

Short title.

1. This Act may be called "The Mysore Mines Act, 1906."

Local extent and commencement.

It extends to the [1][whole of the State of Mysore except Bellary District], and shall come into force on the first day of September 1906.

Repeal.

2. The Mysore Mines Act, 1897, and Acts I and VI of 1900 are hereby repealed.

Interpretation.

3. In this Act, unless there be something repugnant in the subject or context,

Mining operation.

(1) "Mining operation" includes—

(*a*) the carrying on of any underground or surface work in connection with the prospecting for, or the mining, winning, dressing, milling and treatment of ores, minerals and mineral products of every description;

(*b*) the erecting, making and using of, and otherwise dealing with, for purposes of such work, any railway, tramway, road, building machinery and other plant; and

(*c*) the manufacture, carriage, storage and use of all explosives, chemicals and other materials to be employed in such work.

1. See the Mysore Adaptation of Laws Order, 1963.

Mining Block. (2) "Mining Block" means any block or area of land in and upon which the right to carry on mining operations is held by a Mining Proprietor under a Mining Lease granted by the Government.

Mine. (3) "Mine" means any place above or below ground where any mining operation is carried on, and includes all such portions of the surface of any mining block whereon the right of entry has been acquired by purchase or otherwise by a Mining Proprietor.

Mining Proprietor. (4) "Mining Proprietor" or "Proprietor" means any person or persons or company on whose behalf any mining operations are carried on.

Mining Superintendent. (5) "Mining Superintendent" or "Superintendent" means the person who is the local representative of a Mining Proprietor, and includes an Agent or Manager in charge of any mine on behalf of Mining Proprietor.

Mining material (6) "Mining material" includes—

(*a*) alluvial gold, gold ores, native gold, precious stones and other rocks and minerals of value;

(*b*) gold amalgam, sponge gold, zinc precipitates slags, concentrates, tailings, residues and other valuable mineral products of mines in any stage of treatment or extraction; and mercury, potassium cyanide and other chemicals, apparatus, tools marked with the distinguishing mark of the mine, and materials used in such treatment and extraction;

(*c*) dynamite, nitro-glycerine, blasting gelatine, gelatine dynamite, fuse, detonators and other explosives used or intended to be used in mining operations;

(*d*) stearine candles distinguished by the wax being of light pink colour; and

(*e*) such other materials and things used or intended to be used in mining operations as may be declared by the Government from time to time, by notification published in the Official Gazette, to be mining materials.

(*Protection of Mining Property*)

(7) "Unwrought gold" includes bar gold, gold bullion and any alloy containing gold in any form whatever which though smelted is not made up into articles of jewellery, vessels, coins, or other articles of use or commerce. Unwrought gold.

(8) "Gold dealer" means any person who buys or sells unwrought gold, or receives unwrought gold by way of barter or pledge. Gold dealer.

(9) "Goldsmith" means any person who, by profession, melts, refines or works in unwrought gold or silver, or engages in the melting or manufacture of articles made of gold or silver or of alloys containing gold or silver, and includes a silversmith. Goldsmith.

(10) "Inspector of Mines" includes any officer to whom all or some of the duties of an Inspector of Mines under this Act shall have been delegated, by a general or special order of the Government, so far as the performance of such duties is concerned. Inspector of Mines.

PROTECTION OF MINING PROPERTY.

4. (1) The provisions of sections 5 to 20, inclusive, shall not apply to any local area unless extended thereto by the Government by a notification published in the official Gazette. Sections 5 to 20 may be applied to specified areas.

(2) The Government may, by a like notification, cancel or modify any notification issued under sub-section (1).

5. No person shall purchase or take in barter or exchange any mining material belonging to a Mining Proprietor without the written permission of such Mining Proprietor or his Superintendent, nor shall any person, without such written permission, receive, convey, or except in such places as may be specially authorized, keep, any such mining material otherwise than for use for mining purposes on behalf of such Mining Proprietor or his Superintendent. Mining materials not to be purchased, conveyed or kept without written permission.

6. Any person found to be in possession of any mining material without the written permission of a Mining Proprietor or Superintendent, and unable to prove that his possession of the same was obtained in a lawful Penalty for unlawful possession of mining materials.

manner, shall, on conviction before a Magistrate, be liable to the penalty provided in section 13.

Licenses required for gold dealer and goldsmiths.

7. It shall not be lawful for any person to buy or sell unwrought gold or to receive unwrought gold by way of barter or pledge without a gold dealer's license, nor to carry on the profession of a goldsmith without a goldsmith's license as hereinafter provided :

Provided that it shall not be necessary for a Mining Proprietor to take out a goldsmith's license on account of the smelting, refining or other preparation of any gold obtained from his mine by any persons acting on his behalf.

Power to grant a license.

8. (1) The licenses referred to in section 7 may be issued by a Magistrate of the First Class on payment of such fees as the Government may by rule prescribe in that behalf, and every license shall terminate on the 31st day of December of the year in which it is issued.

(2) Every gold dealer's and every goldsmith's license and every application for a license, shall, respectively be in such forms as may be prescribed by Government.

Power to cancel a license.

9. No license shall be issued to any applicant unless the Magistrate is satisfied that he is a person of good character and reputation, and it shall be in the absolute discretion of the Magistrate to grant or withhold such license as he may think fit. Any license may be cancelled by a First Class Magistrate on the licensee being convicted of any offence—such conviction not being reversed on appeal or in revision—which in the opinion of the Magistrate renders him unfit to hold a license. Provided that any decision under this section by a Magistrate other than the District Magistrate shall be appealable to the District Magistrate, whose order shall be final

Books to be maintained.

10. (1) Every licensed gold dealer shall keep at his place of business a book (hereinafter called a gold dealer's register) in which the receipt or disposal of all gold, unwrought gold shall be immediately entered in such forms as may be prescribed by Government.

(2) Every licensed goldsmith shall keep at his place of business a book (hereinafter called a goldsmith's register) in which the receipt or disposal of all gold, silver, gold or silver jewellery, unwrought gold or other gold stuff,

received, treated or disposed of, by him shall be immediately entered in such form as may be prescribed by Government.

(3) Every gold dealer's register and every goldsmith's register together with any article or items of gold referred to therein and in the possession of the licensee shall be open to inspection at any time by any police officer not below the rank of Chief Constable, or any police officer specially authorized in this behalf by the Superintendent of Police or by a First Class Magistrate; provided that the person making such inspection shall not divulge the result thereof to any person other than a police officer or Magistrate or by order of a court, under a penalty on conviction not exceeding one hundred rupees.

Goldsmiths not to deal with gold, etc., until after three days of receipt.

11. No licensed goldsmith shall smelt, work, use or deal with any of the articles directed to be entered in his register under section 10 until after the expiry of three clear days from the time when such article is received by him. Provided that this section shall not apply to the repairing of articles of jewellery by a goldsmith in any way which does not change or destroy the identity of such articles.

Possession of unwrought gold unlawful except in certain cases.

12. It shall not be lawful for any person to have in his possession any unwrought gold unless he holds a gold dealer's license or a goldsmith's license or unless he is a Mining Proprietor or duly accredited person acting on behalf of a Mining Proprietor.

Penalty for breach of Sections 5, 6, 7, 10, 11 or 12.

13. Any person committing an offence under sections 5, 6, 7, 11 or 12 shall, except in the case mentioned in the proviso to sub-section (3) of section 10, be liable on conviction to fine not exceeding five hundred rupees, or imprisonment of either description for a term which may extend to one year, or both.

Substitution or addition of whipping in certain cases.

14. It shall be in the discretion of the Magistrate, in the case of any person not being a female or other person exempted under section 393 of the Code of Criminal Procedure, who shall be convicted of a second offence under sections 5, 6, 7 or 12, to award whipping under the provisions of the Mysore Whipping Act V of 1903, either in substitution of, or in addition to, the penalty provided in section 13.

Power to search.

15. Any police officer not below the rank of an officer in charge of a police station may search any person or any house, building or place for the discovery of any mining material, unwrought gold or other thing with, or in respect of, which an offence under this Act is reasonably suspected to have been committed.

Liability of tenant or occupier of premises in regard to unwrought gold or mining material seized therein.

16. Any person being the tenant or occupier or reputed tenant or occupier of any premises, at the time when any unwrought gold or mining material reasonably suspected of being stolen or unlawfully obtained is found thereon and seized by any police officer, shall be deemed to have been in possession of such unwrought gold or mining material within the meaning of section 12 or 6, as the case may be, until he proves the contrary.

Liability of undesirable person to be ordered off any mine or cooly colony.

[1][**17.** The Superintendent of Police for the Kolar Gold Fields, may by order in writing, direct any person, whose residence within such area as may be notified by Government from time to time is considered undesirable, to quit the said area within twenty-four hours and such person shall not, after the lapse of the said time, remain at or re-enter the said area without the permission of the said Superintendent of Police.

An order passed under this section may be cancelled by the Superintendent of Police or by the District Magistrate.]

License required for hawkers and pedlars.

18. No hawker or pedlar shall carry on his business without a license in writing obtained for that purpose from a Magistrate of the First Class. Licenses shall be issued subject to such conditions and the levy of such fees as Government may prescribe.[2]

Penalty for breaches of sections 17 and 18.

19. Any person committing [3][any act prohibited] under section 17 or 18 shall be liable on conviction to fine not exceeding one hundred rupees or imprisonment of either description for a term not exceeding three months, or both.

Cognizability of offences by the police.

20. All offences under sections 5, 6, 7, 10, 11, 12, 16, 17 and 18 of this Act shall be cognizable by the Police.

1. Substituted by Act IX of 1914.
2. The last sentence of this section was omitted by Act IX of 1914.
3. These words were substituted by Act IX of 1914.

(*Sanitation*)

[1]*Sections 21 to 33 (omitted).*

SANITATION.

34. (1) The Government may, from time to time, make rules for the special sanitation and sanitary administration of any local area within which mining operations may be carried on. Power of Government to make rules for sanitation and sanitary administration.

(2) In particular, and without prejudice to the generality of the foregoing provision, such rules may provide—

(*a*) for regulating the disposal of kitchen and stable refuse, animal refuse of all kinds, and night-soil or other such offensive matter;

(*b*) for conserving and guarding against pollution all sources of water-supply;

(*c*) for preventing overcrowding in bazaars, in cooly lines, and in streets or houses for work-people or others;

(*d*) for the proper cleansing of drains, sewers, latrines and urinals;

(*e*) for regulating the keeping of cattle and other animals, the location of sheds for them, and the fixing or licensing of slaughter-houses; and authorizing the levy of rent or fees for the use of the same or a fee on each animal slaughtered therein at such rates as may be prescribed from time to time; and

(*f*) for the proper and timely treatment of persons affected with cholera or other epidemic disease and for preventing the spread of such disease by temporarily prohibiting persons affected or suspected to be affected with it from moving to or from particular specified places or travelling on particluar specified routes.

(3) The local area for which the rules under this section are made shall be described in a notification published in the official Gazette.

35. (1) For the purpose of carrying out the rules made under the last preceding section, the Government may appoint any persons, official or non-official or both, residing within or in the vicinity of such area, to constitute a Constitution of a Sanitary Board.

1. Sections 21 to 33 repealed by the Part B States (Laws) Act, 1951 (Central Act III of 1951.)

Sanitary Board, and invest such Board, with powers for the enforcement of the said rules, and prescribe the mode in which such Board shall conduct its business for carrying out the said rules.

(2) The powers with which the Sanitary Board may be invested under this section include—

(*a*) power to prescribe bye-laws, with the previous sanction of Government, for the special sanitation of the area under its authority and for the conduct of its business;

(*b*) power to levy, with the like sanction, such tax, rate or cess within the said area as a Municipal Council would be competent to levy under the law in force relating to Municipalities.

Punishment for breach of rules and bye-laws.

36. For every breach of a rule made under section 34 or of a bye-law made under section 35, the offender shall be liable to a fine not exceeding rupees one hundred.

Fines to be credited to the funds of the Sanitary Board.

[1][**36A.** All fines imposed for the breach of any bye-law made under sub-section (2) of section 35 shall when recovered be credited to the funds of the Sanitary Board constituted under sub-section (1) thereof.]

[2]**37.** * * (*Omitted.*)

Abetment of offences under this Act.

38. The abetting (within the meaning of the Indian Penal Code) of any offence under this Act shall be punishable in the same manner as the offence itself.

Offences against Act and rules by whom cognizable.

39. All offences punishable under this Act and all breaches of any rules or bye-laws made thereunder shall be cognizable by the District Magistrate or a Magistrate of the First or Second Class.

Provisions of the Code of Criminal Procedure to apply to searches.

40. The provisions of the Code of Criminal Procedure relating to searches shall, so far as may be, apply to all searches made or instituted under this Act.

Publication of rules and bye-laws.

41. All rules and bye-laws made under this Act shall be published in the official Gazette, and shall thereupon have the force of law.

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1. Added by Act VII of 1915.
2. Repealed by the Part B States (Laws) Act, 1951 (Central Act III of 1951.)

THE MYSORE VILLAGE OFFICES ACT, 1908.

Arrangement of sections.

Preamble.

Sections.

1. Short title, extent and commencement.
2. Repeal of rules and orders ; saving of rights already acquired.
3. Disposal of suits, etc., pending at commencement of Act.
4. Definitions—
"Village."
"Village Office."
Provisos.
"Village Officer."
"Emoluments."
"Deputy Commissioner."
"Assistant Commissioner."
5. Emoluments of Village Offices inalienable, impartible and not liable to attachment.
Proviso.
6. (1) Villages may be grouped, amalgamated or divided.
(2) Selection of persons to fill new offices.
(3) Reduction or increase of village offices or village officers.
7. Power to punish village officers ; procedure to be followed ; and mode of recovering fines imposed.
8. Rules to be observed in making appointments to the offices of patel, shanbhog, etc., in unalienated villages.
(1) General qualifications requisite in all cases.
(2) Succession in case of permanent vacancy.
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(4) Procedure to be adopted when successor is a minor.
9. Rules to be observed in making appointments to the offices of patel, shanbhog, etc., in alienated villages.
10. Succession in the case of offices other than patel, shanbhog, etc.
11. (1) Suits for offices, for recovery of emoluments and for registry as successor. No suit for declaratory decree.
(2) Rejection of plaint when claimant is ineligible for appointment or for registry.
12. Procedure in case of non-payment of *miras* to nirganti, toti or talari.
13. Power of Deputy Commissioner in regard to tranfers of suits.
14. (1) Every enquiry to be deemed a judicial proceeding.
(2) Procedure with regard to suits, etc.
15. Taxation of costs and execution of decrees and orders.

Sections.

16. Jurisdiction of Civil Courts barred.

17. (1) Appeal against decree or order of Assistant Commissioner, holder of a commission exercising powers of Assistant Commissioner and Deputy Commissioner.

Second appeal in certain cases and appeal to Government.

(2) Appeal against order of Amildar or Deputy Amildar or holder exercising the powers of Amildar or Deputy Amildar.

18. Disposal of appeal by officer who passed original order.

19. Power to call for and examine the records and proceedings of subordinate officers and to refer questions to the High Court.

20. Dismissal of suits, etc., instituted, etc., after the period of limitation.

Limitation in case of suits the cause of action for which accrued before the commencement of this Act.

21. Application of certain sections of the Limitation Act.

22. (1) Government may make rules on certain subjects.

(2) Until such rules are made, existing rules to be in force.

SCHEDULE A—Form of Commission issued under section 7 (3).

SCHEDULE B— Period of limitation for suits, etc.

MYSORE ACT No. IV OF 1908.

THE MYSORE VILLAGE OFFICES ACT, 1908

(AS AMENDED BY ACTS VIII OF 1919 AND 21 OF 1953.)

(Received the assent of His Highness the Maharaja on the 16th October 1908).

An Act to consolidate and amend the Law relating to Village Offices in [1][the State of Mysore except Bellary District].

Preamble.

WHEREAS it is expedient to consolidate and amend the law relating to village offices in [1][the State of Mysore except Bellary District]; His Highness the Maharaja is pleased to enact as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Mysore Village Offices Act, 1908.

(2) It extends to the [1][whole of the State of Mysore except Bellary District], provided that Government may, by notification in the official Gazette, exclude any local area from its operation and may, in like manner, amend or cancel such notification.

(3) [2] It shall come into force from such date as may be notified by Government in the official Gazette.

Repeal of rules and orders; saving of rights already acquired.

2. On and after that date, all existing rules and orders relating to village offices shall be repealed: provided that nothing herein contained shall be deemed to affect any right acquired, or to revive any right that has ceased to exist, or to affect any act done or liabilities incurred, under the said rules and orders.

Disposal of suits, etc., pending at commencement of Act.

3. All suits, appeals and applications pending at the commencement of this Act shall be heard and disposed of as if they had been preferred under this Act.

Definitions.

4. In this Act, unless there is something repugnant in the subject or context,—

"Village." "Village" means any local area now recognised as a village or hereafter declared by Government to be a village;

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1. See the Mysore Adaptation of Laws Order, 1956.
2. This Act came into force on 1st July 1909—*vide* Notification No. J. 1898—Legis. 17-40-21, dated 6th January 1909.

"Village Office." "Village Office" means every office to which emoluments have been attached and which is held for the performance of duties connected with the administration or collection of the revenue, or with the maintenance of order, or with the settlement of boundaries, or other matter of civil administration pertaining to a village whether the services originally appertaining to the office continue or have ceased to be performed or demanded, and by whatsoever designation the office may be locally known:

Provisos. Provided as follows:—

(1) The Government may, by notification in the official Gazette, exclude any village office or offices from the operation of all or any of the provisions of this Act, and may, in like manner, amend or cancel such notification.

(2) The Government shall have power to decide, in case of doubt, whether any office falls under the definition of village office;

"Village Officer." "Village Officer" means an officer holding a village office or appointed to perform or performing the duties of a village office;

"Emoluments." "Emoluments" means and includes—

(i) lands;

(ii) assignments of revenue payable in respect of lands;

(iii) fees in money or agricultural produce;

(iv) money-salaries and all other kinds of remuneration;

granted or continued in respect of, or annexed to any village office by the Government;

"Deputy Commissioner." "Deputy Commissioner" means the chief local officer in charge of the revenue administration of a district;

"Assistant Commissioner." "Assistant Commissioner" means an Assistant Commissioner in charge of a division of a district and includes any other Assistant Commissioner to whom cases under this Act have been transferred for disposal, in so far as such cases are concerned;

Emoluments of village offices inalienable, impartible and not liable to attachment. **5.** The emoluments of village offices, whether such offices be or be not hereditary, shall not be liable to be transferred, partitioned, or encumbered in any manner whatsoever, and it shall not be lawful for any Court to attach or sell such emoluments or any portion thereof:—

Proviso. Provided that in the case of lands which are not assigned as emoluments to the holder of a village office

under rules framed under section 22, nothing contained in this section shall be deemed to affect transfers, partitions or encumbrances, as between different members of a hakdar's family.

Villages may be grouped, amalgamated or divided.

6. (1) The Government may, with reference to rules made in this behalf under section 22, group or amalgamate any two or more villages or portions thereof so as to form a single new village, or divide any village into two or more villages ; and may also direct that any village office in the villages, portions of villages or village grouped, amalgamated or divided as aforesaid, shall cease to exist ; and that new offices shall be created for the new village or villages.

Selection of persons to fill new offices.

(2) In choosing persons to fill such new offices, the Deputy Commissioner or Assistant Commissioner shall, subject to such rules as Government may make in this behalf under section 22, select the persons whom he may consider the best qualified from among the last holders of the offices which have ceased to exist or the members of their families.

Reduction or increase of village offices or village officers.

(3) The Government may also direct that the number of village offices attached to village or the number of village officers shall be--

(*a*) reduced, and thereupon the Deputy Commissioner shall dispense with the services of the officers no longer required and shall retain those whom he may consider to be best qualified to discharge the duties of the remaining offices ; or

(*b*) increased, in which case the Deputy Commissioner or Assistant Commissioner shall select the best qualified from among the members of the families of the existing officers.

Power to punish village officers ; procedure to be followed ; and mode of recovering fines imposed.

7. (1) The Deputy Commissioner or Assistant Commissioner may, of his own motion or on complaint and after enquiry, fine, suspend, dismiss or remove any holder of a village office, whether in an unalienated or alienated village, for misconduct or for neglect of duty or for incapacity or for non-residence in the village, except when such non-residence is permitted by the Deputy Commissioner, or for any other sufficient cause.

[1][* * *]

1. Proviso omitted by Act VIII of 1919.

[1][Provided that the Deputy Commissioner or Assistant Commissioner may, if satisfied that there is a *prima facie* case of misappropriation or other misconduct of a grave nature against any holder of a village office, place such holder under suspension till the disposal of the case or until further orders.]

(2) The Amildar or Deputy Amildar may, of his own motion or on complaint and after enquiry, fine, or, subject to the confirmation of the Deputy Commissioner or Assistant Commissioner, suspend any holder of a village office, whether in an unalienated or alienated village, for misconduct or neglect of duty.

(3) The holder of an alienated village or where there are more such holders than one, any one of them, or the agent of such holder or holders may, when duly authorized in that behalf by a commission issued by the Government in the form of schedule A, exercise in the village aforesaid and in respect of all or any particular offices specified and without prejudice to the exercise by the Deputy Commissioner, Assistant Commissioner, Amildar or Deputy Amildar of the powers respectively vested in them by sub-sections (1) and (2), all or any of such powers of an Assistant Commissioner, Amildar or Deputy Amildar under those sub-sections, as may be conferred upon him by the commission.

(4) [2][Save as specified in the proviso to sub-section (1)] the officer or person taking action against a village officer under any of the preceding sub-sections shall hold the enquiry himself, record his proceedings in writing and furnish a copy of his order to such village officer. When such order is passed by the holder of a commission under sub-section (3), the proceedings together with a copy of the order shall also be forthwith reported by him to the Deputy Commissioner or Assistant Commissioner through the Amildar or Deputy Amildar for information and record or for confirmation, as the case may be.

(5) Subject to any rules which may be made by Government in this behalf under section 22, the Deputy Commissioner may declare, that dismissal or removal of any village officer, whether in an unalienated or alienated village and whether ordered by himself or confirmed by him, shall entail a forfeiture of the right of

1. Added by Act 21 of 1958.
2. Inserted by Act 21 of 1953.

succession of all undivided members of the family of the officer so dismissed or removed.

(6) Fines and suspensions under sub-sections (1), (2) and (3) shall be subject to such limitations as may be laid down by Government by rules made under section 22.

(7) All fines imposed under this section shall be recoverable as arrears of land revenue, the recovery in the case of fines payable by village officers in alienated villages being made by the Amildar or Deputy Amildar and credited to the public treasury.

Rules to be observed in making appointments to the offices of patel, shanbhog, etc., in unalienated villages.

8. When a vacancy occurs in the office of patel, shanbhog, nirganti, toti, or talari of an unalienated village, the Deputy Commissioner or Assistant Commissioner shall fill up the vacancy in accordance with the provisions of the following sub-sections :—

General qualifications requisite in all cases.

(1) No person shall be eligible for appointment who—

(*a*) is not of the male sex ;

(*b*) has not attained majority, that is, completed 18 years of age ;

(*c*) is not physically and mentally capable of discharging the duties of the office ;

(*d*) has not qualified according to the educational test, if any, prescribed for the office in question by rules made under section 22 ;

(*e*) has been convicted by a Criminal Court of any offence which in the opinion of the Deputy Commissioner or Assistant Commissioner, disqualifies him for holding the office ;

(*f*) has been adjudged by the Deputy Commissioner or Assistant Commissioner after a summary enquiry held in accordance with the provisions relating to summary enquiries contained in the Mysore Land Revenue Code, IV of 1888, to be of general bad character :

Provided that, in the case of nirganti, toti and talari, the Deputy Commissioner or Assistant Commissioner may, for special reasons, make an exception in favour of females otherwise competent.

Succession in case of permanent vacancy.

(2) Subject to the provisions of sub-section (1) and save as hereinafter separately provided in the case of minors, and subject also to any declaration made

by the Deputy Commissioner under section 7, the succession in the case of a permanent vacancy (*a*) shall be regulated by the ordinary provisions of the personal law applicable to the last holder, provided that it shall devolve on a single heir and that where there are more persons than one who would under the ordinary provisions of the said law be entitled to succeed to the last holder of the office, preference shall be given to the eldest member of the eldest branch among those persons, and (*b*) failing these, shall devolve on one of the duly recognised hakdars in the order of their importance as determined under rules made by Government under section 22 or one of his heirs according to the order of precedence laid down above. In the absence of persons entitled as above under (*a*) and (*b*), the Deputy Commissioner or Assistant Commissioner may appoint any other person duly qualified under sub-section (1), subject to such appointment, unless sooner determined by a decree in a suit hereinafter provided for, being cancelled in favour of a person falling under (*a*) or (*b*), in the event of such person being forthcoming, at the end of three years from the date of the appointment.

Appointment in case of, temporary vacancy.

(3) Where an office has become vacant by the dismissal, removal or suspension of the last holder, the Deputy Commissioner or Assistant Commissioner may, if he thinks proper, direct that, until the death or return to duty of such last holder, the duties of the office shall be performed by some person duly qualified under sub-section (1) who is not an undivided member of the family of such holder; but in making the selection the directions contained in sub-section (2) shall as far as possible, be conformed to:

Provided that, when the officer who has been dismissed or removed dies, or if the officer who has been suspended dies while under suspension, the vacancy caused by such death shall be filled up in accordance with the provisions of sub-section (2).

(4) When the person who would otherwise be entitled to succeed to an office is a minor, the Deputy Commissioner or Assistant Commissioner shall register the minor as the successor of the last holder and appoint some other person qualified under sub-section (1) to discharge the duties of the office until the person registered as successor, on attaining majority or within three years thereafter, is qualified under sub-section (1) to discharge the duties of the office himself, when he shall be appointed thereto. If the person registered as successor under this sub-section dies, or if he remains disqualified under sub-section (1) for three years after attaining majority, the Deputy Commissioner or Assistant Commissioner shall fill up the vacancy in accordance with the provisions contained in sub-section (2). Procedure to be adopted when successor is a minor.

[1][(5) The Amildar or Deputy Amildar may grant leave to village officers up to three months and appoint substitutes for the period, provided that such appointment shall be communicated to the Assistant Commissioner or the Deputy Commissioner and that such officer may cancel the appointment giving his reasons therefor.]

9. When a vacancy occurs in the office of patel, shanbhog, nirganti, toti or talari of an alienated village, the holder of such village shall fill up the vacancy in accordance with the principles contained in section 8, subject to the confirmation of the Deputy Commissioner or Assistant Commissioner. Rules to be observed in making appointments to the offices of patel, shanbhog, etc., in alienated villages.

If the appointment be not made by the holder of the village within such time as may be allowed by the Deputy Commissioner or Assistant Commissioner, it shall be competent to the Deputy Commissioner or Assistant Commissioner to make such appointment.

10. The succession to village offices in unalienated and alienated villages other than those of patel, shanbhog, nirganti, toti and talari shall devolve in accordance with the law or custom applicable thereto; and, in the absence of any such law or custom, in accordance with the provisions of sections 8 and 9, respectively. Succession in the case of offices other than patel, shanbhog, etc.

1. Added by Act VIII of 1919.

Suits for offices, for recovery of emoluments and for registry as successor.

11. (1) Any person may sue before the Deputy Commissioner or Assistant Commissioner for any village office in an unalienated or alienated village or for recovery of the emoluments of any such office, on the ground that he is entitled under section 8, 9 or 10 of this Act, as the case may be, to hold such office and enjoy such emoluments; or being a minor, may sue before the Deputy Commissioner or Assistant Commissioner to be registered as successor of the last holder of any such office :

No suit for declaratory decree.

Provided that no suit shall be entertained for a mere declaratory decree.

Rejection of plaint when claimant is ineligible for appointment or for registry.

(2) If, at any time before the completion of the trial of a suit preferred under this section, it appears to the Deputy Commissioner or Assistant Commissioner that the claimant is not eligible for appointment on any of the grounds referred to in sub-section (1) of section 8, he shall pass an order rejecting the plaint.

Procedure in the case of non-payment of *miras* to nirganti, toti or talari.

12. On a complaint being preferred by a nirganti, toti or talari of non-payment of the *miras* payable under rules framed under section 22 by any holder of land or other person from whom such contribution is due, the Amildar or the Deputy Amildar of the taluk or sub-taluk shall hold a summary enquiry in the manner laid down in the Land Revenue Code, IV of 1888, and pass a decision thereon : provided that the complaint is made in the year in which such *miras* is due or in the year immediately following it.

Power of Deputy Commissioner in regard to transfers of suits.

13. The Deputy Commissioner may transfer to his own file any suit on the file of any Assistant Commissioner, or transfer any suit from his own file or that of an Assistant Commissioner to the file of another Assistant Commissioner, for disposal.

Every enquiry to be deemed a judicial proceeding.

14. (1) Every enquiry under this Act shall be deemed to be a "Judicial proceeding" within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

Procedure with regard to suits, etc.

(2) The procedure to be followed with regard to suits, appeals and applications under this Act shall be regulated by rules made by the Government under section 22.

Taxation of costs and execution of decrees and orders.

15. Decrees and orders passed in suits and enquiries under this Act may provide for payment of costs according to such scale and subject to such rules as may be prescribed by Government under section 22, and shall be executed in accordance with rules to be made under the said section and the corresponding provisions of the Land Revenue Code.

Jurisdiction of Civil Courts barred.

16. No Civil Court shall exercise jurisdiction in respect of any claim to succeed to or to the possession of, any village office, or the emoluments thereof, or any question as to the rate or amount of such emoluments; but, when the claim is as between different members of a hakdar's family of patel or shanbhog in respect of land entered in the Government records or otherwise shown as service inam land connected with the office of patel or shanbhog, such claim may be entertained and adjudicated upon by a Civil Court.

Appeal against decree or order of Assistant Commissioner, holder of a commission exercising powers of Assistant Commissioner, and Deputy Commissioner.

17. (1) From every decree or order passed under this Act by an Assistant Commissioner and from every order passed by the holder of a commission exercising any of the powers of an Assistant Commissioner under sub-section (*3*) of section 7, an appeal shall lie to the Deputy Commissioner; and from every decree or order passed by a Deputy Commissioner,an appeal shall lie to the Revenue Commissioner. The decision on appeal of the Deputy Commissioner or the Revenue Commissioner, as the case may be, shall be final:

Second appeal in certain cases and appeal to Government.

Provided that in cases of dismissal or removal under section 7 and in suits under section 11, a second appeal from the decision on appeal of the Deputy Commissioner shall lie to the Revenue Commissioner whose decision on such appeal shall be final, and provided further that nothing contained in this Act shall affect the right of appeal to Government under section 210, sub-section (*2*) of the Mysore Land Revenue Code.

Appeal against order of Amildar or Deputy Amildar or holder exercising the powers of Amildar or Deputy Amildar.

(*2*) From every decision or order passed by an Amildar or Deputy Amildar under sub-section (*2*) of section 7 or section 12, and from every order passed by the holder of a commission exercising any of the powers of an Amildar or a Deputy Amildar under sub-section (*3*) of section 7, an appeal shall lie to the Deputy Commissioner or Assistant Commissioner, whose decision shall be final.

Disposal of appeal by officer who passed original order.

18. If the officer to whom an appeal is presented under this Act happens to be the officer who in another capacity passed the decision which is appealed against, he shall report the fact to the authority to whom an appeal from his decision would lie, and such authority shall dispose of the appeal in accordance with law.

Power to call for and examine the records and proceedings of subordinate officers and to refer questions to the High Court.

19. The Government and any Revenue Officer not inferior in rank to an Assistant Commissioner may call for and examine the record of any enquiry or the proceedings of any revenue officer subordinate to it or him and may pass such order thereon as shall seem fit; and the Government may also refer questions for the decision of the High Court. The provisions of the Land Revenue Code IV of 1888, as regards revision of proceedings and reference to the High Court shall apply to revision of proceedings and reference to the High Court under this section.

Explanation.—For purposes of revision of orders passed by the holder of a commission under sub-section (*3*) of section 7, such holder shall be deemed to be an Assistant Commissioner or an Amildar or a Deputy Amildar, according as he is invested with the powers of an Assistant Commissioner or an Amildar or a Deputy Amildar, respectively, under the abovementioned sub-section.

Dismissal of suits, etc., instituted, etc., after the period of limitation.

20. Subject to the provisions contained in section 21, every suit instituted, appeal presented and application made after the period of limitation prescribed therefor by the schedule hereto annexed, shall be dismissed although limitation has not been set up as a defence :—

Provided that, in the case of a person who by reason of minority is disqualified from holding office, the right to sue for such office or for the recovery of the emoluments thereof shall accrue from the date of his attaining majority.

Limitation in case of suits the cause of action for which accrued before the commencement of this Act.

Notwithstanding anything herein contained, any suit the cause of action for which accrued prior to the commencement of this Act, may be brought within three years next after the commencement of this Act, unless where the period prescribed for such suit by the law of limitation applicable to it hitherto shall have expired before the completion of the said three years.

Application of certain sections of the Limitation Act.

21. The provisions of sections 5 and 12 of the Indian Limitation Act, 1877, so far as they relate to suits, appeals and applications shall, so far as may be, apply to suits, appeals or applications for the execution of decrees or orders, instituted, preferred or made under this Act.

Government may make rules on certain subjects.

22. (1) The Government may, by notification in the official Gazette, make rules not inconsistent with this Act in regard to the following :—

(i) the division, grouping and amalgamation of villages and the selection of persons to fill the offices newly created under section 6 ;

(ii) the holding of enquiries and other matters coming under sections 6 and 7, and the hearing of appeals under section 17 ;

(iii) matters falling under sections 8 and 9 ;

(iv) the action to be taken in respect of any alienation of emoluments contrary to the provisions of section 5 :

(v) the procedure to be followed in filing and in disposing of suits, appeals and applications and the registers to be maintained in connection therewith ;

(vi) the execution of decrees and orders and the taxation of costs ;

(vii) the emoluments to be assigned to the holders of village offices, and the method of assessment and payment thereof ;

(viii) the duties of holders of village offices, and the descriptions and forms of the accounts and registers to be kept by them ;

(ix) the custody, production and transfer of the accounts and other records kept by holders of village offices ;

(x) any other matters calculated to enhance the efficiency of the village service, or connected with the carrying out of the purposes of this Act.

Until such rules are made; existing rules to be in force.

(2) Until rules are made by Government in respect of any of the matters referred to in the preceding sub-section, the rules, if any, in force with regard thereto at the time of the passing of this Act shall, so far as they are consistent with this Act, be deemed to have been made under the preceding sub-section.

SCHEDULE A.

Form of commission to be issued to the holder of an alienated village or to one of several holders thereof or to an agent under section 7 (3).

SEAL.

The Government of Mysore is pleased to confer on you (holder, one of several holders, or agent, as the case may be) power to punish village officers in the village of... .....to the extent described below :—

[*Here enter description.*]

The within delegated power is vested in you during the pleasure of and subject to recall by the Government of Mysore.

Secretary.

———

SCHEDULE B.

	Description	Period of limitation	Time from which period begins
1	Suit for the recovery of a village office or of the emoluments of any such office.	Three years	When the plaintiff is entitled to the possession of the office of the recovery of the emoluments, or the date of the order which would become final, if no such suit be brought.
2	Appeal to the Deputy Commissioner or Assistant Commissioner.	Thirty days	The date of the decree or order appealed against.
3	Appeal to the Revenue Commissioner.	Ninety days	Do do
4	Application for execution of decree or order.	One year	(1) The date of decree or order. (2) (Where there has been an appeal), the date of the final decree or order of the appellate court. (3) (Where there has been a review of judgment), the date of the decision passed on review. (4) (Where there has been a revision of the decree or order), the date of the decree or order passed on revision. (5) The date of the last application for execution made in accordance with this Act.
5	Application for review of decree or order.	Ninety days	The date of the decree or order sought to be reviewed.
6	Applications not otherwise herein provided for.	Do	When the right to apply accrues.

THE MYSORE POLICE ACT, 1908.

Arrangement of sections.

CHAPTER I.

PRELIMINARY.

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1. (1) Short title.
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(3) Commencement.
2. Repeal of enactments.
3. Rules as to Village Police.
4. Definitions.
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(*b*) "District Superintendent."
(*c*) "Inspector."
(*d*) "Police officer."
(*e*) "Constable."
(*f*) "District."
(*g*) "Taluk" and "Sub-Taluk."
(*h*) "Street."
(*i*) (1) "Gaming."
(2) "Instruments of gaming."
(3) "Common gaming-house."
(*j*) "Cattle."
(*k*) "Vehicle."
(*l*) Words and expressions defined in the Criminal Procedure Code.

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5. Constitution of Police Force.
6. (1) Appointment of Inspector-General of Police.
(2) and of Deputy or Assistant Inspector-General.
(3) Their suspension or removal.
7. Appointment of District and Assistant Superintendents and their dismissal, suspension, etc.
8. Appointment of Inspectors of certain grades and dismissal of Inspectors.
9. Appointment of Inspectors of other grades, of Sub-Inspectors and of Police officers below that rank.

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10. (1) Certificates of appointment to be given to Inspectors and Sub-Inspectors. Such certificates when to become null and void.
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11. (1) Powers, etc., of persons appointed as aforesaid.
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12. General powers of the Inspector General.

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15. (1) Powers of Superintendent.
(2) Powers of Amildar, Deputy Amildar and Inspector.

16. Deputy Commissioner may make necessary distribution of Police force.

17. (1) Appointment of special Police officers.
(2) Powers and responsibilities of Special Police officers.

18. (1) Employment of additional Police at request of persons showing the necessity therefor.
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20. Disputes as to payment of cost.

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(3) Extension of period for payment of cost.
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24. Framing of rules for administration of Police.

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51. Enforcement of orders issued under sections 39, 40 or 41.

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53. Police officer may take charge of stray cattle.

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56. Punishment of certain street offences and nuisances—
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(*c*) leaving cattle, etc., insufficiently tended;
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(*e*) exposing animals for hire or sale, etc.;
(*f*) causing any obstruction in street;
(*g*) obstructing foot-way;
(*h*) exhibiting mimetic, musical or other performances, etc.;
(*i*) gambling in a street;
(*j*) doing offensive acts on or near public street;
(*k*) letting loose horses, etc., and suffering ferocious dogs to be at large;
(*l*) bathing or washing in places not set apart for those purposes;
(*m*) defiling water in public wells, etc.;
(*n*) obstructing bathers;
(*o*) behaving indecently in public;
(*p*) being drunk and incapable;
(*q*) obstructing or annoying passengers in streets;
(*r*) misbehaviour with intent to provoke breach of peace;
(*s*) begging and exposing offensive ailments;
(*t*) throwing dirt into street;
(*u*) neglecting to protect dangerous places;
(*v*) affixing bills or defacing walls;
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57. Punishment for cruelty to animals.

58. Penalty for refusal to serve as special Police officer.

59. Penalty for vexatious search, arrest, etc., by Police.

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64. Instruments of gaming may be ordered to be destroyed on conviction.

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69. Penalty for being found armed between sunset and sunrise intending to commit an offence, etc.

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70. Penalty for contravention of rules or directions under sections 39, 40, 41, 44, 45 and 46.

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79. Method of proving orders and notifications issued under the Act.

80. Rules and orders not to be deemed invalid on account of defect of form or irregularity in procedure.

81. (1) No Magistrate or Police Officer to be liable to penalty or damages for act done in good faith in pursuance of duty.
(2) No public servant liable as aforesaid for giving effect in good faith to any rule, order or direction issued with apparent authority.
(3) Suits or prosecutions in respect of acts done under colour of duty as aforesaid not to be entertained or to be dismissed if instituted after one year.
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SCHEDULE 'B'.—Forms of certificates of appointment for $\frac{\text{Inspector}}{\text{Sub-Inspector}}$ and for Police Officer below the grade of Sub-Inspector.

MYSORE ACT No. V OF 1908.

THE MYSORE POLICE ACT, 1908.

(*As amended by Acts VI of 1921, IX of 1932, X of 1935, II of 1943, VIII of 1952, 17 of 1953 and 20 of 1954.*)

(RECEIVED THE ASSENT OF HIS HIGHNESS THE MAHARAJA ON THE 23RD DAY OF DECEMBER 1908).

An Act to consolidate and amend the Law relating to the Police of [1][the State of Mysore except Bellary District.]

Preamble. WHEREAS it is expedient to consolidate and amend the law relating to the Police of [1][the State of Mysore except Bellary District] ; His Highness the Maharaja is pleased to enact as follows :—

CHAPTER I.

PRELIMINARY.

Short title. **1.** (1) This Act may be cited as "The Mysore Police Act, 1908."

Extent. (2) It extends to the [1][whole of the State of Mysore except Bellary District] ; and

Commencement. (3) It shall come into force at once.

Repeal of enactments. **2.** The enactments mentioned in Schedule 'A' are repealed to the extent specified in the third column thereof.

All references made in any enactment in force to any enactment hereby repealed shall be read as if made to the corresponding portion of this Act.

All rules prescribed, appointments made, powers conferred and orders and certificates issued under any such enactments shall, so far as they are consistent with this Act, be deemed to have been respectively prescribed, made, conferred and issued hereunder.

Rules as to Village Police. **3.** (1) The Government may, from time to time by notification in the Official Gazette, make rules having the force of law regarding the organization and regulation of

1. See the Mysore Adaptation of Laws Order, 1953.

the Village Police in [1][the State of Mysore except Bellary District] and may cancel, alter or add to such rules ; and the Government may, by such rules, among other matters,

(i) provide, subject to the provisions of any law or rules in force relating to village officers, for the entertainment of such village headmen, village watchmen, thotis, talaries, and other establishments of Village Police as may be necessary for each village or place, the appointment of permanent, temporary or acting incumbents for the said offices, and their remuneration ;

(ii) define the relations of members of the Village Police to one another and to the regular Police;

(iii) prescribe the powers and duties of Village Police officers of different grades as regards the collection and communication of intelligence relating to the condition of the community, the state of crime, the commission of offences, the occurrence of suspicious or unnatural deaths, and the like, and as regards the execution of processes, the apprehension of offenders or suspicious characters, the conduct of searches, the holding of inquests, the custody and disposal of unclaimed property, investigation of offences, the examination of witnesses, the taking of precautionary measures against dangers to the public health, peace or safety, the maintenance and charge of village boundary hedges and walls, gates, chavadi and other buildings, and other matters ;

(iv) require the inhabitants of villages to aid the Village Police, when called upon to do so, in keeping watch and patrolling their villages at night, in preventing or resisting robbery or other cognizable offences, in pursuing or apprehending offenders, in the recovery of stolen property, in the maintenance of village fences and village gates in good order and in carrying out other communal purposes of a like nature ;

(v) define the ordinary powers of village headmen and the powers with which village headmen may be specially invested, in respect of the trial and

1. See the Mysore Adaptation of Laws Order, 1958.

punishment of offenders, and the procedure to be followed in the exercise of such powers ;

(vi) provide for the punishment, departmentally or otherwise, of members of the Village Police for misconduct or dereliction of duty ; and

(vii) attach to the breach of any rule under this section a penalty on conviction before a Magistrate not exceeding one hundred rupees.

(2) Until such rules shall be made and published as aforesaid, the " Rules for the organization and Regulation of the Village Police in Mysore," published under the Notification of the Government of India, Foreign Department No. 230—J., dated the 16th October 1872, and as subsequently amended from time to time, shall continue to be in force, and shall be deemed to be rules made under this section.

Definitions.

4. In this Act, unless there be something repugnant in the subject or context,—

" Inspector-General," " Deputy Inspector-General," " Assistant Inspector-General," " District Superintendent " and " Assistant Superintendent."

(*a*) " Inspector-General," Deputy Inspector-General," " Assistant Inspector-General," " District Superintendent " and " Assistant Superintendent " mean, respectively, the Inspector-General of Police, a Deputy Inspector-General of Police, an Assistant Inspector-General of Police, a District Superintendent of Police and an Assistant Superintendent of Police appointed under this Act ;

" District Superintendent."

(*b*) " District Superintendent " includes any Assistant Superintendent or other person appointed by general or special order of the Government to perform all or any of the duties of a District Superintendent of Police under this Act in any district or part of a district ;

" Inspector."

(*c*) Subject to such rules and orders as the Government may pass, " Inspector " includes " Sub-Inspector " and " Jamadar " ;

" Police officer."

(*d*) " Police officer " means any member of the regular Police force appointed under this Act ;

(*e*) "Constable" means a Police officer of the lowest grade; "Constable."

(*f*) "District" means a territorial division constituting a district for the purposes of the Mysore Land Revenue Code, 1888, and includes a portion of a District placed under the charge of a District Superintendent for the purposes of this Act; "District."

(*g*) "Taluk" and "Sub-Taluk" mean, respectively, the local limits within which an Amildar and a Deputy Amildar ordinarily exercise revenue jurisdiction under the Mysore Land Revenue Code; "Taluk" and "Sub-Taluk."

(*h*) "Street" includes any highway and the way over any causeway, bridge, viaduct or arch, and any road, lane, footway, square, court, alley or passage accessible to the public, whether a thoroughfare or not; "Street."

[1][(*i*) (1) 'Gaming' does not include a lottery but includes all forms of wagering or betting, except wagering or betting on a horse race when such wagering or betting takes place—

(i) on the date on which such race is run; and

(ii) in an enclosure which the licensee of the race-course on which such race is to be run, has set apart for the purpose under the terms of the licence issued under section 4 of the Mysore Race-courses Licensing Act, 1952, (Mysore Act VIII of 1952), in respect of such race-course; and

(iii) between any person, being present in the enclosure, on the one hand, and such licensee or other person licensed by such licensee in terms of the aforesaid licence on the other hand in such manner and by such contrivance as may be permitted by such licence;

Explanation.—For the purposes of this definition, wagering or betting shall be deemed to include the collection or soliciting of bets, the receipt or distribution of winnings or prizes, in money or otherwise, in respect of any wager or bet, or any act which is intended to aid or facilitate wagering or betting or such collection, soliciting, receipt or distribution;

(2) 'instruments of gaming' include any article used or intended to be used as a subject, or means of,

1. Substituted by Act 17 of 1963.

gaming, any document used or intended to be used as a register or record or evidence of any gaming, the proceeds of any gaming, and any winnings or prizes in money or otherwise distributed or intended to be distributed in respect of any gaming;

(3) 'common gaming house' means a building, enclosure, room, place or vehicle in which any instruments of gaming are kept or used for the profit or gain of the person owning or occupying such building, enclosure, room, place or vehicle or of the person using such building, enclosure, room, place or vehicle, whether he has a right to use the same or not, such profit or gain being either by way of a charge for the use of the instrument of gaming or of the building, enclosure, room, place or vehicle or otherwise howsoever.]

"Cattle." (*j*) "Cattle" includes elephants, camels, horses, asses, mules, sheep, goats and swine;

"Vehicle." (*k*) "Vehicle" includes bicycles, tricycles, motor cars and every wheeled conveyance;

Words and expressions defined in the Criminal Procedure Code. (*l*) Words and expressions which are defined in the Code of Criminal Procedure have the same meaning as in that Code.

CHAPTER II.

Organization of the Regular Police.

Constitution of Police force. **5.** The entire Police establishment under the Government shall, for the purposes of this Act, be deemed to be one Police force and shall consist of such number of officers and men, and shall be enrolled and constituted in such manner and shall receive such pay as shall, from time to time, be ordered by Government.

Appointment of Inspector-General of Police; and of Deputy or Assistant Inspector-General. **6.** (1) The Government may appoint an Inspector-General of Police for the direction and supervision of the Police force in Mysore;

(2) The Government may appoint one or more Deputy or Assistant Inspectors-General of Police, to whom Government may assign such duties being amongst the lawful duties of the Inspector-General of Police, or in

aid and furtherance thereof as shall to Government seem expedient.

(3) The Inspector-General and Deputy or Assistant Inspector-General may be suspended or removed from office by Government. Their suspension or removal.

7. The Government may appoint for each district such Superintendents and Assistant Superintendents of Police as it may think expedient, and may dismiss, suspend, reduce, remove or transfer any of such officers as it may think fit. Appointment of District and Assistant Superintendents, and their dismissal, suspension, etc.

8. The appointment of Inspectors of such grades as Government may from time to time prescribe shall be made by Government; and the dismissal of Inspectors of all grades shall vest in Government. Appointment of Inspectors of certain grades, and dismissal of Inspectors.

9. (1) The appointment of Inspectors of grades other than those prescribed under section 8 and of Sub-Inspectors shall vest in the Inspector-General. Appointment of Inspectors of other grades, of Sub-Inspectors and of Police Officers below that rank.

(2) Police officers of the rank of Jamadar shall be appointed in each district by the Deputy Commissioner.

(3) Police officers below the rank of Jamadar shall be appointed in each district by the District Superintendent.

(4) The appointment of all officers of any Provincial Reserve Police force except Inspectors of the grades prescribed under section 8 shall be made by the Inspector-General.

Provided that all appointments made under this section shall be subject to such rules as Government may from time to time prescribe.

10. (1) Every Inspector and Sub-Inspector shall, on appointment, receive from the Inspector-General a certificate of appointment in Form I of Schedule 'B'. Such certificate shall become null and void whenever the person named therein ceases for any reason to be an Inspector or a Sub-Inspector, as the case may be, and shall be forthwith surrendered by him. Certificates of appointment to be given to Inspectors and Sub-Inspectors. Such certificates when to become null and void.

Certificates of office to be given to Police officers below the grade of Sub-Inspectors. Such certificates when to become null and void.

(2) Every Police Officer below the grade of Sub-Inspector shall on enrolment, receive a certificate in Form II of Schedule 'B' from the Deputy Commissioner of the district in which he is enrolled. And every such Police officer enrolled in any Provincial Reserve Police force shall receive a certificate in form II of Schedule 'B' from the Inspector-General. Every such certificate shall become null and void whenever the person named therein ceases for any reason to be a Police officer and shall be forthwith surrendered by him.

Powers, etc., of persons, appointed as aforesaid.

11. (1) Every person appointed as aforesaid, shall, in virtue of such appointment, be vested with the powers, functions, privileges and responsibilities of a Police officer.

Temporary suspension of powers, etc., of Police officers.

(2) A Police officer shall not, by reason of his being suspended from office, cease to be a Police officer, but during the term of such suspension, the powers, functions and privileges vested in him shall be in abeyance, and he shall continue subject to the same responsibilities and subject to the same authorities as if no such suspension had taken place.

General powers of the Inspector-General.

12. The Inspector-General shall be the head of the Police Department. He will exercise general control over the Police force and over crime—more particularly, organised and professional crime—and subject to the approval of Government, he may make rules and orders under the provisions of sections 24 and 25 of this Act.

Inspector-General to have magisterial powers; and to exercise them subject to limitations prescribed and imposed by Government.

13. The Inspector-General of Police shall have the powers of a Magistrate of the First Class throughout Mysore, but shall exercise such powers only in such cases and subject to such limitations as may, from time to time, be prescribed and imposed by Government.

General powers of Deputy Commissioner.

14. Subject to the general control of the Inspector-General, the Deputy Commissioner shall be the head of the Police in his district, and shall, as such, direct and regulate all matters connected with the efficient discharge of their duties by the Police force of his district.

(*Chapter II—Organization of the Regular Police*)

Powers of Superintendent.

15. (1) Subject to such rules and orders as may be made by Government in this behalf, and to the general control of the Deputy Commissioner, the District Superintendent may exercise all or any of the powers of the Deputy Commissioner under this Act; and without prejudice to the powers and responsibilities of the Deputy Commissioner, the District Superintendent shall have direct control over all ordinary matters connected with—

(*a*) arms, accoutrements, clothing;
(*b*) drill, exercise;
(*c*) observation and surveillance of gangs, known depredators, suspects; collection and communication of intelligence and information; identification of persons by finger-prints or otherwise;
(*d*) distribution of duties and beats;
(*e*) education of men and officers in law and Police procedure; and
(*f*) questions of routine;

and may correspond direct with the Inspector-General in ordinary matters connected with arms, accoutrements, clothing, drill and discipline, escorts, reports and returns, identification of persons by finger-prints or otherwise, and other routine matters.

Powers of Amildar, Deputy Amildar and Inspector.

(2) Subject as aforesaid, the Amildar and Deputy Amildar shall be *ex-officio* Police officers within their revenue charges and shall have general powers of control over the Police and be responsible for the prevention and detection of crime and maintenance of order within such charges; and the Inspector shall be the executive head of the Police within his range, subject to the general control and direction of the Amildar or Deputy Amildar.

Deputy Commissioner may make necessary distribution of Police force.

16. Subject to the approval of the Inspector-General, the Deputy Commissioner may make such distribution or movement of the allotted Police force within his jurisdiction as may be found necessary to meet local requirements.

Appointment of Special Police officers.

17. (1) When it shall appear that any unlawful assembly or riot or other disturbance of the peace has taken place or is reasonably apprehended and that the Police force ordinarily employed for preserving the peace is not sufficient for its preservation and for the protection of the

inhabitants and the security of property in the place where such unlawful assembly or riot or disturbance of the peace has occurred or is apprehended, it shall be lawful for any Magistrate in the neighbourhood, on the application of any Police officer having authority in the place, not below the rank of an officer in charge of a Police station, to appoint, by a written order signed by himself and sealed with his official seal, so many of the fit and capable male residents of the neighbourhood as may be required to act as Special Police officers for such time and within such limits as he shall deem necessary.

Powers and responsbilities of Special Police officers.

(2) Every Special Police officer so appointed shall have the same powers, functions, privileges and immunities and be liable to the same duties and responsibilities and be subject to the same authorities as an ordinary Police officer; but it shall not be necessary for him to receive a certificate of office under section 10.

Employment of additional Police at request of persons showing the necessity therefor.

18. (1) The Inspector-General, or the Deputy Commissioner, subject to the approval of the Inspector-General, may, on the application of any person showing necessity therefor, depute any additional number of Police to keep the peace or to perform other Police duties at any place within his jurisdiction.

Cost and control thereof.

(2) Such additional Police shall be employed at the charge of the person making the application, but shall be subject to the orders of the Police authorities and shall be employed for such period as may be deemed necessary.

Proviso regarding relief from cost.

(3) Provided that, if the person, upon whose application such additional Police are employed shall, at any time, make a written requisition to the Inspector-General or the Deputy Commissioner for the withdrawal of the said Police, he shall be relieved from the charge therefor on the expiration of such period, not exceeding one month from the date of delivery of such requisition, as such officer shall determine.

Employment of additional Police near large works.

19. (1) Whenever it shall appear to the Inspector-General or the Deputy Commissioner that the behaviour, or a reasonable apprehension of the behaviour, of the persons employed on any railway, canal or other public work, or in or upon any manufactory or other commercial

concern under construction or in operation at any place, necessitates the employment of additional Police at such place, such officer may, with the sanction of Government, depute such additional Police to the said place and keep the said Police employed therefor so long as he shall consider necessary.

Cost and control thereof.

(2) Such additional Police shall be employed at the charge of the person by whom the work, manufactory or concern is being constructed or carried on, at such rates and payable at such times as the Deputy Commissioner, with the sanction of Government, may prescribe and shall be subject to the orders of the Police authorities.

Disputes as to payment of cost.

20. In the event of any dispute in any case under section 18 or section 19, the decision of the Deputy Commissioner shall be conclusive as to the amount to be paid and as to the person by whom it is to be paid, and the sum so ascertained may be levied as if it were an arrear of land revenue.

Employment of additional Police in cases of special danger to public peace.

21. (1) The Government may, from time to time, by notification duly published, direct the employment of additional Police for such period as it shall think fit in any local area which shall appear to it to be in a disturbed or dangerous state, or in which the conduct of the inhabitants or of any particular section of the inhabitants shall, in its opinion, render it expedient temporarily to increase the strength of the Police.

Cost thereof.

(2) The cost of such additional Police shall, if Government so direct, be either in whole or in part defrayed by a tax imposed on the persons hereinbelow mentioned, or by a rate assessed on the property of such persons, or both by a tax and by a rate in such proportions as the Government may fix, and charged—

(*a*) either generally on all persons who are inhabitants of the local area to which such notification applies; or

(*b*) specially on any particular section or sections or class or classes of such persons.

Explanation.—For the purposes of this section and of section 22, "inhabitants" shall include persons who themselves or by their agents or servants occupy or hold land

or other immovable property within such area, and landlords who themselves or by their agents or servants collect rents or revenue direct from raiyats or occupiers in such area notwithstanding that they do not actually reside therein.

Extension of period for payment of cost.

(3) It shall be lawful for Government to extend the period for the payment of such tax or rate for a term not exceeding in any case five years beyond the period for which such additional Police are actually employed.

Assessment of cost.

(4) The said tax shall be imposed, or the said rate shall be assessed, by the Deputy Commissioner at his discretion.

Exemption from liability to bear cost.

(5) It shall be lawful for Government, by order, to exempt any person from liability to bear any portion of such cost.

Application for compensation for injury caused by misconduct of inhabitants or unlawful assembly.

22. (1) If death or grievous hurt or loss of or damage to property has been caused by, or has ensued from, the misconduct of the inhabitants or any class or section of them in any area referred to in the preceding section or by anything done in the prosecution of the common object of an unlawful assembly, it shall be lawful for any person or persons who claim to have suffered injury from such misconduct or act to make, within one month from the date of the injury, an application to the Deputy Commissioner for compensation.

Compensation how recoverable.

(2) With the previous sanction of Government obtained through the Inspector-General, the Deputy Commissioner may—

(*a*) after such enquiry as he deems necessary,

(i) determine the amount of the compensation which should be paid to such person, or persons, and

(ii) declare the local area, the inhabitants of which have, in his opinion, by their conduct caused or contributed to such disturbed or dangerous state or to the holding of such assembly;

(*b*) recover the amount so determined, in such proportions as he may think proper, from all or any of the inhabitants of the local area so declared as aforesaid, or from any section or sections, or class or classes of such persons;

(*c*) award or apportion all or any moneys so recovered to any person or among all or any persons whom he considers entitled to compensation in respect of the death or grievous hurt or loss or damage aforesaid.

Exemption from liability to pay compensation.

(3) It shall be lawful for Government, by order, to exempt any persons from liability to pay any portion of such compensation.

Conditions under which compensation recoverable.

(4) No recovery shall be made and no compensation shall be granted under this section, unless the Deputy Commissioner is satisfied that the person claiming compensation is himself free from blame in respect of the occurrences which led to the death, grievous hurt, loss or damage as aforesaid.

Orders of Deputy Commissioner subject to revision.

(5) Every declaration, assessment and order made by the Deputy Commissioner under sub-section (2) shall be subject to revision by Government or by such officer as it from time to time empowers in this behalf, but save as aforesaid shall be final.

Bar to maintaining civil suit.

(6) No civil suit shall be maintainable in respect of any loss or injury for which compensation has been awarded under this section.

Recovery of rates and charges under sections 21 and 22 by Deputy Commissioner.

23. Every tax imposed or rate assessed or amount recoverable by the Deputy Commissioner under the last two preceding sections or other provision of this Act shall be recovered by the Deputy Commissioner as if it were an arrear of land revenue due by the person answerable therefor.

CHAPTER III.

Regulation, Control and Discipline of the Police Force.

Framing of rules for administration of Police.

24. Subject to the orders of Government, the Inspector-General may from time to time, make rules or orders not inconsistent with this Act or with any other enactment at the time in force—

(*a*) relating to the recruitment, organization, classification and discipline of the Police;

(Chapter III—Regulation, Control and Discipline of the Police Force)

(*b*) regulating the inspection of the Police by his subordinates ;

(*c*) determining the description and quantity of arms, accoutrements, clothing and other necessaries to be furnished to the Police ;

(*d*) for institution, management and regulation of any Police fund for any purpose connected with the Police administration ;

(*e*) regulating the distribution, movement and location of the Police ;

(*f*) regulating the duties of Police officers of different grades ;

(*g*) regulating the collection and communication by the Police of intelligence and information, and in the investigation of crime ;

(*h*) prescribing the books and registers to be maintained and the returns to be submitted by the several Police officers ;

(*i*) generally, for the purpose of rendering the Police efficient and preventing abuse or neglect of their duties..

Inspector-General may make inspections and call for returns, etc.

25. The Inspector-General may, subject to the rules and orders of Government, make periodical inspections of Police establishments and stations, and require from the District Superintendent and other officers subordinate to him and from the Deputy Commissioner, returns, reports and statements, either particular or general, on subjects connected with the suppression of crime, the condition of the criminal classes, the maintenance of order and the prevention of disorder, the regulation of assemblies and amusements, the distribution of the Police force, the utilization of auxiliary means, the performance by the Police of their duties and all other matters in furtherance of his control of the police force.

Punishment of Police officers departmentally for neglect of duty, etc.

26. (1) Any officer authorized by sub-section (3) in that behalf may—

(*a*) suspend, reduce or dismiss any Police officer below the grade of Assistant Superintendent, or

(*b*) impose on any such Police officer who is guilty of any breach of discipline, misconduct or neglect of

duty which does not necessitate his suspension, reduction or dismissal or who, by any act of his own, renders himself unfit for the discharge of his duty any one or more of the following punishments, *viz.*,—

(1) fine not exceeding one month's pay ;
(2) deprivation of good service pay ;
(3) removal from any office of distinction or special emolument ;
(4) entry of a black mark against his name in the manner prescribed by rules made in this behalf ;
(5) forfeiture of leave ;
(6) punishment drill ;
(7) extra guard, fatigue or other duty,

Provided that the punishments mentioned in clauses (4), (6) and (7) shall not be imposed on any officer of or above the rank of Jamadar.

Punishment under this section to be in addition to penalty under sections 33, 59 or 60.

(2) Any punishment inflicted on a Police officer under this section shall be in addition to the penalty to which such officer is liable under sections 33, 59 or 60 of this Act or any other law in force.

Punitive powers of Inspector-General and Deputy Commissioner and District Superintendent.

(3) Subject to the provisions of section 8, the Inspector-General shall have authority to punish any Police officer below the grade of Assistant Superintendent. The Deputy Commissioner and the District Superintendent shall have each the like authority in respect of any Police officer subordinate to him of and below the grade of Sub-Inspector and the Deputy Commissioner may suspend an Inspector who is subordinate to him, pending inquiry into any grave complaint against such Inspector and until an order of the Inspector-General can be obtained. But the exercise of any power conferred by this sub-section shall be subject always to such rules and orders as may be made by Government in that behalf.

Procedure to be observed in awarding punishment.

27. (1) When any officer passes an order for fining, suspending, reducing or dismissing a Police officer, he shall record such order or cause the same to be recorded, together with the reasons therefor and a note of the

inquiry made, in writing, under his signature, in Kanarese or in English.

Appeal.

(2) From all orders passed by the District Superintendent under sub-section (1), an appeal shall lie to the Deputy Commissioner. From all orders of the Deputy Commissioner, an appeal shall lie to the Inspector-General. In the case of all officers above the rank of constables, a further appeal shall lie to Government.

Departmental punishment for insubordination.

28. (1) The Inspector-General or the Deputy Commissioner or the District Superintendent may punish, by confinement for a period not exceeding three days, any Police officer below the rank of Jamadar or head constable who is, in his presence, grossly insubordinate or who is insolent to him.

Procedure to be observed in awarding such punishment.

(2) Every order for punishing a Police officer as aforesaid shall be recorded in the manner prescribed in section 27, and a copy of every such order made by a Deputy Commissioner or a District Superintendent shall be forwarded by him without delay to the Inspector-General or the Deputy Commissioner, as the case may be.

Police officers to be deemed to be always on duty and to be liable to employment in any part of Mysore.

29. Every Police officer shall, for all purposes of this Act, be deemed to be always on duty and may at any time be transferred to or employed on Police duty in any part of Mysore for so long as his services may be there required.

Police officers not to engage in trade, etc.

30. (1) Without the permission of the Deputy Commissioner or the Inspector-General, or of Government, no Police officer shall engage in trade or be in any way concerned, either as principal or as agent, in any dealing in land within the district wherein he is employed or in any commercial transaction whatever, or bid for property sold by order of a Criminal Court, or have money transactions with another Police officer.

Police officers not to be engaged on other than Police duties.

(2) No Police officer shall, unless with the written permission of the Inspector-General, hold any office or practise in any profession, or engage in any employment whatever, other than his office or duties as such Police officer.

(Chapter III—Regulation, Control and Discipline of the Police Force)

(3) The prohibitions in sub-sections (1) and (2) apply when a Police officer is on leave or under suspension as well as when he is on duty. These prohibitions to apply also when Police officer is on leave or under suspension.

31. (1) Unless with the written permission of the Deputy Commissioner or of some other Police officer empowered by the Inspector-General in this behalf, no Police officer of or below the rank of Inspector shall resign his office or withdraw himself from the duties thereof. Under what conditions Police officer may resign.

[1] * * *

(2) Provided that if any such Police officer produces a certificate signed by the Principal Medical Officer in the district declaring him to be unfit, by reason of disease or mental or physical incapacity, for further service in the Police, the necessary written permission to resign shall forthwith be granted to him on his discharging or giving satisfactory security for the payment of any debt due by him [2][as such Police officer to the Government or to any police fund.] Proviso.

(3) If any such Police officer as aforesaid resigns or withdraws himself from the duties of his office in contravention of this section, he shall be liable, on the order of the Deputy Commissioner, to forfeit all arrears of pay then due to him. This forfeiture shall be in addition to the penalty to which the said officer is liable under section 33 of this Act or other law in force. Arrear pay of Police officer contravening this section may be forfeited.

32. (1) Every person who for any reason ceases to be a Police officer shall forthwith deliver up to some officer empowered by the Deputy Commissioner to receive the same, his certificate of appointment or of office and arms, accoutrements, clothing and other necessaries which have been furnished to him for the execution of his office. Certificate, arms, etc., to be delivered up by person, ceasing to be Police officer and

(2) Any Magistrate and, for special reasons which shall be recorded in writing at the time, any District Superintendent may issue a warrant to search for and seize, wherever they may be found, any certificate, arms, if not delivered up, may be seized under search warrant.

1. The word "until" and clauses (*a*) and (*b*) omitted by Act II of 1943.
2. Substituted for the words "as aforesaid" by Act II of 1943.

accoutrements, clothing or other necessaries not so delivered up. Every warrant so issued shall be executed in accordance with the provisions of the Code of Criminal Procedure by a Police officer or, if the Magistrate or District Superintendent issuing the warrant so directs, by any other person.

Saving of certain articles.

(3) Nothing in this section shall be deemed to apply to any article which, under the orders of the Inspector-General, has become the property of the person to whom the same was furnished.

Penalty for making false statement, etc., and for misconduct of Police officers.

33. (1) Any person who makes a false statement or uses a false document for the purpose of obtaining employment or release from employment as a Police officer, or

(2) any Police officer who—

(*a*) contravenes any provision of section 30, or

(*b*) is guilty of cowardice, or

(*c*) resigns his office or withdraws himself from the duties thereof in contravention of section 31, or

(*d*) is guilty of any wilful breach, or neglect of any provision of law or of any rule or order which, as such Police officer, it is his duty to observe or obey, or

(*e*) is guilty of any violation of duty for which no punishment is expressly provided by any other law in force,

shall on conviction before a Magistrate, be punished with imprisonment for a term which may extend to three months or with fine which may extend to one hundred rupees, or with both.

Consequence of failure to return to duty after leave.

(3) A Police officer who, being absent on leave, fails, without reasonable cause, to report himself for duty on the expiration of such leave, shall, for the purposes of clause (*c*), be deemed to withdraw himself from the duties of his office within the meaning of section 31.

Penalty for failure to deliver up certificate of appointment or of office or other article.

34. Any Police officer who wilfully neglects or refuses to deliver up his certificate of appointment or of office or any other article, in accordance with the provision of sub-section (1) of section 32, shall on conviction before a Magistrate be punished with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

(Chapter IV—Police Regulations)

CHAPTER IV.

POLICE REGULATIONS.

Power of Government to make orders in matters under section 144 of Criminal Procedure Code.

35. Government whenever it shall seem necessary may, by notification, make an order to such effect as any order which, if made by a Magistrate under section 144 of the Code of Criminal Procedure, could be continued in force by Government under the enactment aforesaid.

Rules may be made by District Magistrate regarding use of street, etc.

36. (1) In any town or other place in which he thinks fit, the Magistrate of the district, may, from time to time and subject to such orders as may have been made by a Municipal or other authority empowered in that respect, make rules or orders—

(*a*) closing certain streets or places temporarily, in cases of danger from ruinous buildings, or other cause, with such exceptions as shall appear reasonable ;

(*b*) for guarding against injury to persons and property in the construction, repair and demolition of buildings, platforms and other structures from which danger may arise to passengers, neighbours or the public;

(*c*) regulating the leading, driving, conducting or conveying of any elephant or wild or dangerous animal through or in any street ;

(*d*) prohibiting the hanging or placing of any cord or pole across a street or part thereof, or the making of a projection or structure so as to obstruct traffic or the free access of light and air ;

(*e*) prescribing certain hours of the day during which odorous and offensive matter or objects shall not be taken from or into houses or buildings in certain streets or conveyed through such streets, and during which cattle shall not be driven along the streets or along certain specified streets except under such reasonable regulations as he may prescribe in that behalf ;

(*f*) prohibiting the setting fire to or burning any straw or other matter, or lighting a bonfire or wantonly discharging a fire-arm or air-gun, or letting off or

throwing a fire-work or sending up a fire-balloon in or upon or within fifty feet of a street or building, or the putting up of any post or other thing on the side of or across a street for the purpose of affixing thereto, lamps or other contrivances for illumination, except under such reasonable regulations as he may prescribe in that behalf;

(*g*) prohibiting, except under such reasonable regulations as he may impose, the making of any excavation, the placing of building materials or other articles, or the fastening or detention of any horse or other animal in any street;

(*h*) regulating the blasting of rocks or the making of excavations in or near any street, and providing for the taking out of licenses for such operations;

(*i*) prohibiting, save under such regulations as aforesaid, the exposure or movement in any street of persons or animals suffering from contagious or infectious diseases and the carcasses of animals or parts thereof and the corpses of persons deceased;

(*j*) setting apart places for the slaughtering of animals, the cleaning of carcasses or hides, the deposit of noxious or offensive matters, and for obeying calls of nature;

(*k*) laying down such directions in cases of existing or apprehended epidemic or infectious diseases of men or animals with respect to cleanliness and disinfection of premises by the occupier thereof and residents therein, and as to the segregation and management of the persons or animals diseased or supposed to be diseased, as may have been ordered or approved by Government with a view to prevent the disease or to check the spreading thereof;

(*l*) directing the closing or disuse, wholly or for certain purposes, or limiting to certain purposes only the use, of any source, supply or receptacle of water, and providing against pollution of the same or of the water therein;

(*m*) regulating the hours during which and the manner in which any place for the disposal of the dead,

any chattram, village-gate or other place of public resort may be used, so as to secure the equal and appropriate application of its advantages and accommodation and to maintain orderly conduct amongst those who resort thereto;

(*n*) regulating the entrance and exit of persons at theatres and other places of public amusement or assembly, the decent and orderly conduct of proceedings therein and the movement of persons, animals and vehicles at such times and such places at which, in the opinion of the Magistrate, special regulations may be necessary for the public safety and convenience.

Manner of publication of such rules.

(2) Every regulation made under clause (*i*) or made under clause (*m*) with respect to the use of a place for the disposal of the dead shall be framed with due regard to ordinary and established usages and to the necessities of prompt disposal of the dead in certain cases. Every rule, order or regulation made under the several clauses of this section shall be published in one or more of the methods described below, to be determined by the Magistrate of the district with reference to the circumstances of each case :—

(*a*) by delivery of copy thereof to the person concerned;

(*b*) by affixing notice of the same in such language or languages as may be found suitable at a conspicuous place or places in or near the building, platform, structure, street, locality, source of supply or receptacle of water, place for disposal of the dead, chattram, village-gate, theatre or other place of public resort or amusement;

(*c*) by affixing such notice in the chavadi, Police Station or Taluk Cutcherry or in more than one of these places;

(*d*) by publication of the same in the Official Gazette, and if the Magistrate so direct, in local newspapers;

(*e*) by beat of tom-tom in such places and at such times as the Magistrate may prescribe.

Rules under clause (1) (*k*) to be reported to Government.

(3) Every rule promulgatad under the authority of clause (*k*) of sub-section (1) of this section shall be forthwith reported to Government and shall be in force for not more than thirty days unless extended by Government for a longer period and, in such case, for so long as Government directs.

(4) It shall be the duty of all persons concerned to conform to any order duly made as aforesaid so long as the same shall be in operation.

Discontinuance of brothels.

37. On complaint being made to a Magistrate of a district or of a sub-division that any house in a town or village in his district or sub-division to which Government has by notification extended this section is used as a common brothel or lodging-house or place of resort for prostitutes or disorderly persons of any description, to the annoyance of the respectable inhabitants of the vicinity, the said Magistrate may summon the owner or tenant of the house to answer the complaint, and on being satisfied that the house is so used may order the owner or tenant, within a reasonable period which shall be set forth in the order, to discontinue such use of it.

District Magistrate, etc., may authorise Police Officer to enter common gaming-house.

38. If the Magistrate of the district or a first class Magistrate or the District Superintendent of Police has reason to believe that any building, enclosure, room, place or vehicle is used as a common gaming house, he may either himself enter, or by his warrant give authority to any Police officer above the rank of a constable to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such building, enclosure, room, place, or vehicle and to arrest all persons found therein, and to seize all instruments of gaming and all moneys and securities for money and articles of value reasonably suspected to have been used or intended to be [1][used for the purpose of gaming] which are found therein and to search all parts of such building, enclosure, room, place or vehicle and also the persons found therein.

Control of sound or noise.

[2][**38-A.** (1) If the District Superintendent or the Assistant Superintendent or any Magistrate of the First Class having jurisdiction in any area is satisfied from

1. Substituted by Act 17 of 1953.
2. Sections 38 A and 38 B inserted by Act 20 of 1954.

the report of an officer in charge of a Police Station or other information received by him that it is necessary to do so in order to prevent annoyance, disturbance, discomfort or injury or likelihood of annoyance, disturbance, discomfort or injury to the public or to any persons who dwell in the vicinity, he may, by a written order issue such direction as he may consider necessary to any person for preventing, prohibiting, controlling or regulating the incidence or continuance in or upon any premises or place of—

(i) any vocal or instrumental music, or

(ii) sounds caused by the playing, beating, clashing, blowing or use in any manner whatsoever of any instrument, appliance, apparatus or contrivance which is capable of producing sound.

(2) The officer empowered under sub-section (1) may, either on his own motion or on the application of any person aggrieved by an order made under sub-section (1), either rescind, modify or alter any such order:

Provided that before any such application is disposed of the said officer shall afford to the applicant an opportunity of appearing before him either in person or by pleader and showing cause against the order and shall, if he rejects any such application either wholly or in part, record his reasons for such rejection.

Licensing use of Loudspeakers, etc.

38-B. Subject to the provisions of section 38-A, no person shall use or operate—

(i) in or upon any premises any loudspeaker or other apparatus for amplifying any musical or other sound, at such pitch or volume as to be audible beyond fifty feet from such premises;

(ii) in any open space any loudspeaker or other apparatus for amplifying any musical or other sound, at such pitch or volume as to be audible beyond two hundred feet from the place at which the musical or other sound is produced or reproduced,

except under and in accordance with the conditions of a license granted by the District Superintendent or in such local area by such other officer as the State Government

may, by notification in the *Mysore Gazette*, specify in this behalf.]

Issue of orders by Magistrates for prevention of disorder.

39. (1) The Magistrate of the district or in his absence and subject to his order, any Magistrate of the first class having jurisdiction in any town or village and present therein or in the neighbourhood thereof, may, whenever and for such time as it shall appear necessary, by a notification publicly promulgated or addressed to individuals, prohibit in such town or village or the vicinity thereof the carrying of arms, cudgels or other weapons, the carrying, collection and preparation of stones or other missiles or instruments or means of casting or impelling missiles, the exhibition of persons or of corpses or figures thereof, the public utterance of cries, singing of songs, playing of music, delivery of harangues and use of gestures or mimetic representations and the preparation, exhibition or dissemination of pictures, symbols, placards or of any other object or thing, which may be of a nature to outrage morality or decency or, in the opinion of such Magistrate, may probably inflame religious animosity or hostility between different classes or incite to the commission of an offence, to a disturbance of the public peace or to resistance to or contempt of the law or of a lawful authority.

Orders by subordinate Magistrates to be communicated to District Magistrate.

(2) An order made under this section by a Subordinate Magistrate shall be forthwith communicated to the Magistrate of the district, who shall thereupon confirm, cancel or modify the same as shall seem expedient.

Issue of orders, by Magistrates for prevention of riot or grave disturbance of peace.

40. In order to prevent an impending or apprehended riot or grave disturbance of the peace, the Magistrate of the district, or, in his absence and subject to his control, any Magistrate of the first class having local jurisdiction, may temporarily close or take possession of any building or place, and may exclude all or any persons therefrom or may allow access thereto to such persons only and on such terms as he shall deem expedient. All persons concerned shall be bound to conduct themselves in accordance with such order as the Magistrate may make and notify in the exercise of the authority hereby vested in him.

(Chapter IV—Police Regulations)

Issue of orders by Magistrate of district for maintenance of order at religious ceremonials, etc.

41. (1) In any case of an actual or intended religious or ceremonial or corporate display or exhibition or organized assemblage in any street as to which or the conduct of or the participation in which it shall appear to the Magistrate of the district that a dispute or contention exists which is likely to lead to grave disturbance of the peace, such Magistrate may give such orders as to the conduct of the persons concerned towards each other and towards the public as he shall deem necessary and reasonable under the circumstances, regard being had to the apparent legal rights and to any established practice of the parties and of the persons interested. Every such order shall be published in the town or place wherein it is to operate, and all persons concerned shall be bound to conform to the same.

Orders to be subject to decrees, etc., of Courts.

(2) Any order made under the foregoing sub-section shall be subject to a decree, injunction or order made by a Court having jurisdiction, and shall be recalled or altered on its being made to appear to the Magistrate of the district that such order is inconsistent with any judgment, decree, injunction or order of such Court.

District Magistrate may take special measures to prevent outbreak of epidemic disease at fairs, etc.

42. (1) Whenever it shall appear to the Magistrate of a district that any place in the district at which, on account of a fair, pilgrimage or other such occurrence, large bodies of persons have assembled or are likely to assemble, is visited or will probably be visited with an outbreak of any epidemic disease, he may take such special measures and may, by public notice, prescribe such regulations to be observed by the residents of the said place and by persons present thereat or repairing thereto or returning therefrom, as he shall deem necessary to prevent the outbreak of such disease or the spread thereof.

Levy of fees in such cases.

(2) It shall be lawful for the Magistrate of the district subject to the orders of the Government, to assess and levy such reasonable fees on persons falling under the provisions of sub-section (1) as will provide for the expenses of the arrangements for sanitation and the preservation of order at and about the place of assemblage.

Recovery of expenses from Municipalities.

(3) When the place of assemblage is within the limits of a Municipality, such sums as shall be necessary for the purposes aforesaid may be recovered from the Municipality.

Disposal of gangs and bodies of persons.

43. Whenever it shall appear to the Magistrate of a district or to any Sub-Divisional Magistrate that the movement or encampment of any gang or body of persons in the district is causing or is calculated to cause danger or alarm or to create reasonable suspicion that unlawful designs are entertained by such gang or body or by members thereof, such Magistrate may, by notification addressed to the persons appearing to be the leaders or chief men of such gang or body and published by beat of drum or otherwise as such Magistrate thinks fit, direct the members of such gang or body so to conduct themselves as shall seem necessary in order to prevent violence and alarm, or to disperse and each of them to remove himself to such place by such route as such Magistrate shall prescribe.

Police to provide against disorder, etc., at public places of amusement and public meetings.

44. (1) For the purpose of preventing serious disorder or breach of the law or manifest and imminent danger to the persons assembled at any public place of amusement or at any assembly or meeting to which the public are invited or which is open to the public, the senior Police officer of the highest rank superior to that of constable, present in the town or village where such place of amusement is situate or such assembly or meeting is to be held, may, subject to such rules and orders as may have been lawfully made, give such reasonable directions as to the mode of admission of the public to, and for securing the peaceful and lawful conduct of the proceedings at, such place of amusement or such assembly or meeting, as he thinks necessary; and all persons shall be bound to conform to every such reasonable direction.

Police to have free access thereto.

(2) The Police shall have free access to every such place of amusement, assembly or meeting, for the purpose of giving effect to the provisions of sub-section (1), and to any direction made thereunder.

Issue of licenses for the conduct of processions.

45. The District Magistrate, any first class Magistrate, any Amildar or Deputy Amildar may, within the local limits of his jurisdiction, regulate and control by the grant of licenses or otherwise the conduct of all assemblies and processions, the playing of music, the beating of drums, tom-toms or other instruments and the blowing or sounding of horns or other noisy instruments in or near a street.

Police to regulate assemblies, etc., in public streets.

46. (1) Any officer of Police not below the grade of an Inspector may, subject to any rule or order which may at any time be legally made by any Magistrate or other authority duly empowered in this behalf—

(*a*) make rules for and direct the conduct of and behaviour or action of persons constituting assemblies and processions and moving crowds or assemblages on or along the streets, and prescribe, in the case of processions, the routes by which, the order in which, and the times at which, the same may pass ;

(*b*) make reasonable orders subordinate to and in furtherance of any order made by a Magistrate or competent authority under sections 36 to 43 and 45.

Manner of publication of such rules and orders.

(2) Every rule and order made under sub-section (1) of this section shall be published at or near the place where it is to operate, or shall be notified to the person affected thereby, and all persons concerned shall be bound to act conformably thereto.

Powers with regard to assemblies, etc., violating such rules or orders.

(3) Any Magistrate or any Police officer not below the rank of an officer in charge of a Police Station may stop any procession which violates any license, rule or order issued under this or the preceding section and may order it or any assembly, moving crowd or assemblage which violates any such license, rule or order, to disperse.

Assembly violating such orders to be deemed unlawful assembly.

(4) Any procession or assembly or moving crowd or assemblage which neglects or refuses to obey any such license, rule or order shall be deemed to be an unlawful assembly.

Provisions as to dogs.

47. (1) The Magistrate of the district may, by public notice extending to such place or places within the district as shall therein be named, require every dog, while in the streets and not led by some person, to be muzzled in such a manner as will admit of the animal breathing and drinking without obstruction and effectually prevent it from biting, and the Police may except as is hereinafter in sub-section (2) provided, destroy any dog found loose in any place beyond the premises of the owner thereof during the currency of such order, or may take possession

of any such dog and detain the same until the owner claims it, provides a proper muzzle, and pays all expenses connected with such detention.

When dogs may be destroyed or sold by Police.

(2) The Police shall not destroy any dog which wears a collar bearing a known owner's name unless such dog is rabid, until the same has remained in their possession for three clear days without the owner claiming it and paying all expenses incurred by its detention; but may sell or destroy any dog which has remained in their possession for the said period without the owner claiming it and paying the said expenses.

How expenses may be recovered.

(3) For the expenses incurred under the preceding sub-sections, the owner of the dog shall be answerable as for an arrear of land revenue.

Provision in case of dog wearing collar with owner's address.

(4) When any dog taken possession of by the Police wears a collar with the apparently genuine address of any person inscribed thereupon, a letter stating the fact of such dog having been taken possession of shall be forthwith sent by post to the said address.

CHAPTER V.

EXECUTIVE POWERS AND DUTIES OF THE POLICE.

Duties of Police officer.

48. (1) Every Police officer shall—

(*a*) promptly obey and execute every warrant or other order lawfully issued to him by competent authority; and shall by all lawful means endeavour to give effect to the commands of his superior;

(*b*) to the best of his ability, obtain intelligence concerning the commission of cognizable offences or designs to commit such offences, and report such information and take such other steps, consistent with law and with the orders of his superiors, as shall be best calculated to bring offenders to justice or to prevent the commission of offences;

(*c*) to the best of his ability, prevent the commission of public nuisances;

(*d*) apprehend all persons whom he is legally authorized to apprehend, and for whose apprehension there is sufficient reason ;

(*e*) aid another Police officer when called on by him or in case of need, in the discharge of his duty, in such ways as would be lawful and reasonable on the part of the officer aided ;

(*f*) discharge such duties as are imposed upon him by any law relating to revenue or any other law at the time in force.

Powers to enter places of public resort without warrant.

(2) Every Police officer may, subject to the rules and orders made by Government or by a person lawfully authorised, enter for the purpose of sub-section (1) without a warrant, and inspect any place of public resort and any place which he has reason to believe is used as a drinking shop or shop for the sale of intoxicating drugs, or a place of resort for prostitutes and disorderly persons.

Power to search suspected persons in the streets.

(3) When in street or place of public resort a person is suspected to be in possession or apparent possession of any article which a Police officer in good faith suspects to be stolen property, such Police officer may search for and examine the same and may require an account thereof and, should the account given by the possessor be manifestly false or suspicious, may detain such article and report the facts to a Magistrate, who shall thereon proceed according to sections 523 and 525 of the Code of Criminal Procedure or other law in force.

Duties of Police officers towards the public.

49. It shall be the duty of every Police officer—

(*a*) to afford every assistance within his power to disabled or helpless persons in the streets, and to take charge of intoxicated persons and of lunatics at large who appear dangerous or incapable of taking care of themselves ;

(*b*) to take prompt measures for procuring necessary help for any person under arrest or in custody, who is wounded or sick, and to have due regard to his condition, whilst guarding or conducting him ;

(*c*) to arrange for the proper sustenance and shelter of every person who is under arrest or in custody ;

(*d*) in conducting searches, to refrain from needless rudeness and the causing of unnecessary annoyance ;

(*e*) in dealing with women and children, to act with strict regard to decency and with reasonable gentleness ;

(*f*) to use his best endeavours to prevent any loss or damage by fire ;

(*g*) to use his best endeavours to avert any accident or danger to the public.

Police to regulate traffic, etc., in streets ; and

50. (1) It shall be the duty of a Police officer—

(*a*) to regulate and control the traffic in the streets, to prevent obstructions threin and, to the best of his ability, to prevent the infraction of any of the provisions of this Act or of any rule or order made thereunder or of any other law in force for observance by the public in or near the streets ;

to keep order in streets and other public places ; and

(*b*) to keep order in the streets and at and within public bathing, washing and landing places, fairs, temples and all other places of public resort and in the neighbourhood of places of public worship during the time of public worship ;

to regulate resort to public places.

(*c*) to regulate resort to public bathing, washing and landing places, to prevent overcrowding thereat and in public ferry boats and, to the best of his ability, to prevent the infraction of any rule or order lawfully made for observance by the public at any such place or on any such boat.

Persons bound to conform to reasonable orders of Police.

(2) All persons shall be bound to conform to the reasonable directions of a Police officer given in fulfilment of any of the said duties.

Police officer may restrain or remove contumacious person.

(3) A Police officer may restrain or remove any person resisting or refusing or omitting to conform to any such direction as aforesaid, and may either take such person before a Magistrate or, in trivial cases, may release him when the occasion is past.

(*Chapter V—Executive Powers and Duties of the Police*)

Enforcement of orders issued under sections 39, 40 or 41.

51. Whenever a notification has been duly issued under section 39 or an order has been made under section [1][38-A or 40 or 41,] it shall be lawful for any Magistrate or Police officer to require any person acting or about to act contrary thereto to desist or to abstain from so doing, and, in case of refusal or disobedience, to arrest the person offending. Such Magistrate or Police officer may also seize any object or thing used or about to be used in contravention of such notification or order as aforesaid and the thing seized shall be disposed of according to the order of any Magistrate having jurisdiction at the place.

Duty of Police to see orders issued under section 42 or 43 carried out.

52. It shall be the duty of a Police officer to see that every regulation and notification made by the Magistrate of the district under section 42 or by the Magistrate of the district or a Sub-Divisional Magistrate under section 43 is duly obeyed, to warn persons who from ignorance fail to obey the same, and to arrest any person who wilfully disobeys the same.

Police officer may take charge of stray cattle.

53. A Police officer may take charge of any cattle which may be found straying in a street, and may take or send the same to the nearest pound, and the owner and other persons concerned shall thereon become subject to the provisions of the Cattle Trespass Act.

Duty of Police with regard to unclaimed property.

54. The Police shall take charge of all unclaimed property found by or made over to them, and shall forthwith report the matter to the Magistrate having local jurisdiction, who shall deal with the property as if it were property falling under section 523 of the Criminal Procedure Code.

Superior Police officer may himself perform duties imposed on his inferior, etc.

55. A Police officer of rank superior to that of constable may perform any duty assigned by law or by a lawful order to any officer subordinate to him ; and, in case of any duty imposed on such subordinate, a superior, where it shall appear to him necessary, may aid, supplement, supersede or prevent any action of such subordinate by his own action or that of any other person lawfully acting under his command or authority.

1. Substituted by Act 20 of 1954.

CHAPTER VI.

OFFENCES AND PUNISHMENTS.

Punishment of certain street offences and nuisance;

56. In any local area to which the Government by notification from time to time extends this section or any part thereof, whoever, contrary thereto—

driving on dark nights without light;

(*a*) without lawful excuse drives along, or keeps standing in, any street a vehicle of any description [1][or drags or pushes in any street a vehicle of any description other than a bicycle] at any time between [2][half an hour] after sunset and one hour before sunrise, without a sufficient light or lights; [3]

disregarding the rule of the road;

(*b*) without reasonable cause, drives, drags, or pushes any vehicle otherwise than on the near or left side of the road or passes any vehicle except on the right side of it and at any speed higher than what may be prescribed by notification by Government;

leaving cattle, etc., insufficiently tended;

(*c*) leaves in any street insufficiently tended or secured any animal or vehicle;

causing obstruction or mischief by animals;

(*d*) causes obstruction, injury, danger or alarm in any street, or mischief, by any misbehaviour, negligence or ill-usage in the driving, management or care of any animal or vehicle, or drives any vehicle or animal laden with timber, poles or other unwieldy articles through a street, contrary to any regulation made in that behalf and published by the Magistrate of the district;

exposing animal for hire or sale, etc.;

(*e*) exposes for hire or sale any animal or vehicle, cleans any furniture or vehicle, or cleans, grooms, trains or breaks in any horse or other animal or makes or repairs any vehicle or any part of a vehicle in any street (unless when in the case of an accident repairing on the spot is necessary) or carries on therein any manufacture or operation so as to be a serious impediment to traffic or a serious annoyance to residents or to the public;

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1. Inserted by Act X of 1935.
2. Substituted for "three quarters of an hour" by Act VI of 1921.
3. Certain words at the end of this clause repealed by Act VI of 1921.

causing any obstruction in street;

(*f*) (i) causes obstruction in any street by allowing any animal or vehicle which has to be loaded or unloaded or has to take up or set down passengers, to remain or stand therein longer than may be necessary for such purpose; or by leaving any vehicle standing or by fastening any cattle therein, or using any part of a street as a halting place for vehicles or cattle, or by leaving any box, bale, package or other thing whatsoever in or upon a street for an unreasonable length of time;

(ii) or causes obstruction by exposing anything for sale or setting out anything for sale in or upon any stall, booth, board, cask, basket or in any other way whatsoever contrary to any regulation made and published by the Magistrate of the district;

obstructing foot-way;

(*g*) causes obstruction on any foot-way, or drives, rides or leaves any animal or drives, drags or pushes any vehicle thereupon;

exhibiting mimetic, musical or other performances, etc.

(*h*) exhibits, contrary to any regulation made and notified by the Magistrate of the district, any mimetic, musical or other performances of a nature to attract crowds or carries or places bulky advertisements, pictures, figures, or emblems in any street whereby an obstruction to passengers or annoyance to the inhabitants may be occasioned;

[(*ha*) uses or operates at any place any apparatus for amplifying any musical or other sound, such as a megaphone or loudspeaker, at any time between ten o'clock in the night and six o'clock in the morning, whereby any annoyance, disturbance, or discomfort is caused to the inhabitants in the vicinity.]

[2][(*i*) assembles with others or joins any assembly in a street gathered for the purpose of gaming.]

doing offensive acts on or near public street;

(*j*) (i) slaughters any animal or cleans a carcass or hide, except in some place set apart for the purpose by order of the District Magistrate or of some other person having lawful authority in that behalf;

1. Inserted by Act 20 of 1954.
2. Substituted by Act 17 of 1958.

(ii) obeys a call of nature or permits a child to do so, or bathes or washes his person in or near to and within sight of a street, so as to cause annoyance to the neighbouring residents or to passers-by ;

letting loose horse, etc., and suffering ferocious dogs to be at large ;

(*k*) negligently lets loose any horse or other animal, so as to cause danger, injury, alarm or annoyance to the public, or suffers a ferocious dog to be at large without a muzzle, or sets on or urges a dog or other animal to attack, worry or put in fear any person or animal ;

bathing or washing in places not set apart for those purposes;

(*l*) bathes or washes in or by the side of a public well, tank, or reservoir, not set apart for such purpose by order of the Magistrate of the district or of some other person having lawful authority in that behalf, or in or by the side of any pond, pool, aqueduct, part of a river, stream, nalla or other source or means of water-supply in which such bathing or washing is forbidden by order of the Magistrate of the district or other person having lawful authority in that behalf ;

defiling water in public wells, etc.;

(*m*) defiles, or causes to be defiled, the water in any public well, tank, reservoir, pond, pool, aqueduct or a part of a river, stream, nalla or other source or means of water-supply, so as to render the same less fit for any purpose for which it is set apart as aforesaid ;

obstructing bathers ;

(*n*) obstructs or incommodes a person bathing at a place set apart for that purpose as aforesaid, by wilful intrusion or by using such place for any purpose for which it is not so set apart ;

behaving indecently in public ;

(*o*) wilfully and indecently exposes his person, uses indecent language or behaves indecently or riotously or in a disorderly manner in a street or place of public resort, or in any public office;

being drunk and incapable;

(*p*) is drunk and incapable of taking care of himself in a street or place of public resort ;

obstructing or annoying passengers in streets ;

(*q*) wilfully pushes, presses, hustles or obstructs any passenger in a street, or disturbs the public peace or order, by violent movements, menacing gestures, wanton personal annoyance, screaming, shouting, wilfully frightening horses or cattle, or otherwise ;

(*r*) uses in any street any threatening, abusive or insulting words or behaviour or posts up or affixes or exhibits any indecent, threatening, abusive or insulting paper or drawing with intent to provoke a breach of the peace or whereby a breach of the peace may be occasioned; — misbehaviour with intent to provoke breach of peace;

(*s*) begs importunately for alms, or exposes or exhibits, with the object of exciting charity, any deformity or disease or any offensive sore or wound in or near to and within sight of any street; — begging and exposing offensive ailments;

(*t*) throws or lays down any dirt, filth, rubbish or any stones or building materials in any street, or causes any offensive matter to run from any house, factory, dungheap, or the like into any street; — throwing dirt into streets;

(*u*) neglects to fence in or duly to protect any well, tank, or other dangerous place or structure; — neglecting to protect dangerous places;

(*v*) without the consent of the owner or occupier, affixes or causes to be affixed any bill, notice or other paper upon any building, wall or fence, or writes upon or defaces or marks any such building, wall or fence; — affixing bills or defacing walls;

(*w*) solicits or molests any passenger in a street for the purposes of prostitution; — soliciting for prostitution.

shall be punished with fine which may extend to fifty rupees, provided that imprisonment in default of payment of such fine shall not exceed eight days, notwithstanding anything contained in section 67 of the Indian Penal Code.

57. (1) Whoever cruelly beats, goads, overworks, overloads, ill-treats or tortures, or causes or procures to be cruelly beaten, goaded, overworked, overloaded, ill-treated or tortured any animal shall be punished with imprisonment which may extend to one month, or with fine which may extend to one hundred rupees, or with both. — Punishment for cruelty to animals.

(2) Jurisdiction in cases arising under this section shall not be exercised by a Magistrate of lower rank than the second class, unless such Magistrate be specially invested with jurisdiction for that purpose by the Government.

Penalty for refusal to serve as special Police officer.

58. Any person appointed as a special Police officer under section 17 who, without sufficient excuse, neglects or refuses to serve as such or to obey such lawful order or direction as may be given to him for the performance of his duties, shall be punished with fine which may extend to fifty rupees.

Penalty for vexatious search, arrest, etc., by Police.

59. Any Police officer who—

(*a*) without lawful authority or reasonable cause, enters or searches or causes to be entered or searched any building, vessel, tent or place; or

(*b*) vexatiously and unnecessarily seizes the property of any person; or

(*c*) vexatiously and unnecessarily detains, searches, or arrests any person; or

(*d*) offers any unwarrantable personal violence to any person in his custody; or

(*e*) holds out any threat or promise not warranted by law to an accused person;

shall for every such offence be punished with imprisonment for a term not exceeding two months, or with fine which may extend to five hundred rupees, or with both.

Penalty for vexatious delay in forwarding person arrested.

60. Any Police officer who vexatiously and unnecessarily delays in forwarding any person arrested to a Magistrate or to any other authority to whom he is legally bound to forward such person, shall be punished with fine which may extend to two hundred rupees.

Penalty for contravention of rules under section 36 or of directions under section 50.

61. Whoever—

(*a*) contravenes any rule or order made under section 36, or

(*b*) opposes or fails to conform to any direction given by the police under section 50, or

(*c*) abets the commission of any offence referred to in clause (*a*) or clause (*b*),

shall be punished with fine which may extend to fifty rupees.

Penalty for failure to comply with order under section 37.

62. Whoever fails to comply with an order made under section 37, shall be punished with fine which may extend to twenty-five rupees for every day that such order continues to be disobeyed by him.

(Chapter VI—Offences and Punishments)

Penalty for keeping of any gaming house or gaming therein.

[1][**63.** (1) Whoever—

(*a*) opens, keeps or uses any building, enclosure, room, place or vehicle, for the purpose of a common gaming house,

(*b*) being the owner or occupier of such building, enclosure, room, place or vehicle, knowingly or wilfully permits the same to be opened, occupied, kept or used by any other person for the purpose aforesaid,

(*c*) has the care or management of, or in any manner assists in conducting the business of, any such building, enclosure, room, place or vehicle, opened, occupied, kept or used for the purpose aforesaid,

(*d*) advances or furnishes money for the purpose of gaming with persons frequenting any such building, enclosure, room, place or vehicle,

shall be punished with imprisonment which may extend to six months and with fine :

Provided that—

(*a*) for a first offence such imprisonment shall not be less than one month and fine shall not be less than two hundred rupees ;

(*b*) for a second offence, such imprisonment shall not be less than three months and fine shall not be less than two hundred rupees ; and

(*c*) for a third or subsequent offence such imprisonment shall not be less than six months and fine shall not be less than two hundred rupees.

(2) Whoever is found in any common gaming house gaming or present for the purpose of gaming, shall be punished with imprisonment which may extend to six months and with fine :

Provided that—

(*a*) for a second offence such imprisonment shall not be less than three months and fine shall not be less than two hundred rupees ; and

(*b*) for a third or subsequent offence such imprisonment shall not be less than six months and fine shall not be less than two hundred rupees.

1. Substituted by Act 17 of 1959.

Explanation 1.—When any instrument of gaming has been seized in any building, enclosure, room, place or vehicle, entered or searched under the provisions of section 38 or on a person found therein and in the case of any other thing so seized, if the Court is satisfied that the Magistrate or the Police officer who entered such building, enclosure, room, place or vehicle, had resonable grounds for suspecting that the thing so seized was an instrument of gaming, the seizure of such instrument or thing shall be evidence until the contrary is proved that such building, enclosure, room, place or vehicle is used as a common gaming house and the persons found therein were then present for the purpose of gaming although no gaming was actually seen by the Magistrate or the Police officer or by any person assisting under the authority of either of them.

Explanation 2.—It shall not be necessary in order to convict a person of an offence under this section to prove that any person found gaming was playing for any money, wager, bet, or stake.

Explanation 3.—Any person found in any common gaming house during any gaming therein shall be presumed until the contrary is proved, to have been there for the purpose of gaming.]

Instruments of gaming may be ordered to be destroyed on conviction.

64. On conviction of any person for keeping a common gaming house, or being present therein for the purpose of gaming, all the instruments of gaming found therein may be destroyed by order of the Magistrate, and such Magistrate may order all moneys, securities for money or any of the other articles seized or the proceeds thereof to be forfeited.

Indemnification of witnesses.

65. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on a trial of any person for a breach of any of the provisions of the Act relating to gaming and who upon such examination shall make true and faithful discovery to the best of his knowledge of all things as to which he shall be so examined and who shall thereupon receive from the said Magistrate a certificate in writing to that effect, shall be freed from all prosecutions under this Act, for anything done before that time in respect of such gaming.

Saving of games of skill.

66. Nothing in sections 38 and 63 of this Act, shall be held to apply to games of mere skill wherever played.

Payment of portion of fine to informer of Police.

67. The Magistrate may award any portion, not exceeding one-half, of any fine which shall be levied under section 63 of this Act, and of the moneys or proceeds of articles seized and ordered to be forfeited under section 64, to informers or Police officers who may have assisted in the detection of the offenders.

Penalty for contravening orders under section 38-A or 38-B.

[1][**67**-A. Whoever contravenes any order under section 38-A or section 38-B or any condition of a license granted thereunder or abets the contravention thereof, shall be punished with imprisonment for a term which may extend to three months or with fine wich may extend to five hundred rupees or with both.]

Penalty for gaming and setting birds and animals to fight in public streets.

[2][**68.** A Police officer may arrest and search without warrant—

(*a*) any person found gaming or reasonably suspected to be gaming in any public street or thoroughfare, or in any place to which the public have or are permitted to have access or in any race-course;

(*b*) any person setting any birds or animals to fight in any public street or thoroughfare or in any place to which the public have, or are permitted to have access;

(*c*) any person there present aiding or abetting such public fighting of birds and animals.

Any such person shall be punished with fine which may extend to three hundred rupees or with imprisonment which may extend to three months and where such gaming consists of wagering or betting, any such person so found gaming shall be punished in the manner and to the extent specified in section 63 and all moneys found on such person shall be forfeited.

And such Police officer may seize all birds and animals and things reasonably suspected to be instruments of gaming found in such public street, thoroughfare, place or race-course or on or about the person of those whom he shall so arrest and the Magistrate may on conviction of the offender order such instruments to be forthwith

1. Inserted by Act 20 of 1954.
2. Substituted by Act 17 of 1953.

destroyed and such birds and animals to be sold and the proceeds forfeited. When anything has been found on or about any person and the Court is satisfied that the Police officer had reasonable grounds for suspecting that such a thing was an instrument of gaming such circumstance shall, until the contrary is proved, be evidence that such thing was an instrument of gaming and that the person on or about whom the thing was found was present for the purpose of gaming.]

Penalty for being found armed between sunset and sunrise intending to commit an offence, etc.

69. Whoever is found between sunset and sunrise—

(1) armed with any dangerous instrument with intent to commit an offence, or

(2) having his face covered or otherwise disguised with intent to commit an offence, or

(3) in any dwelling house or any other building, or on board any vessel or boat, without being able satisfactorily to account for his presence there, or

(4) lying or loitering in any street, or other place, being a reputed thief, and without being able to give satisfactory account of himself, or

(5) having in his possession without lawful excuse any implement of housebreaking,

may be arrested by any Police officer without a warrant, and shall be punished with imprisonment for a term not exceeding three months.

Penalty for contravention of rules or directions under sections 39, 40, 41, 44, 45 and 46.

70. Whoever—

(*a*) disobeys an order lawfully made under section 39, 40 or 41, or

(*b*) opposes or fails to conform to any direction given by the Police under section 44, or

(*c*) opposes and disobeys any rule made or direction given under section 46, or

(*d*) contravenes any condition of a license granted under section 45, or

(*e*) abets the commission of any offence referred to in clause (*a*), (*b*), (*c*) or (*d*) of this section,

shall be punished with fine which may extend to two hundred rupees.

(Chapter VI—Offences and Punishments)

71. Whoever contravenes or abets the contravention of any regulation made under section 42 shall be punished with imprisonment which may extend to three months, or with fine which may extend to two hundred rupees, or with both. Penalty for contravention of regulation made under section 42.

72. Whoever opposes or disobeys any direction given by a Magistrate of a district or a Sub-Divisional Magistrate under section 43, or abets opposition to, or disobedience of any such direction, shall be punished with imprisonment which may extend to one month or with fine which may extend to one hundred rupees, or with both. Penalty for contravention of direction given under section 43.

73. Whoever opposes or fails forthwith to comply with any reasonable direction given by a Magistrate or a Police officer under section 51, or abets opposition thereto or failure to comply therewith, shall be punished with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both. Penalty for opposing or not complying with direction given under section 51.

74. Offences against this Act, when the accused person or any one of the accused persons is a Police officer above the rank of a constable, shall not be cognizable by a Magistrate below the second class. Jurisdiction when offender is a Police officer above the rank of constable.

75. It shall not, except in obedience to a rule or order made by the Government or by the Magistrate of the district, be incumbent on the Police to prosecute for an offence punishable under sections 56, 57, 61, 62, [1][67-A] 70, 71 or 72 when such offence has not occasioned serious mischief and has been promptly desisted from on warning given. Prosecution for certain offences against Act to be at discretion of Police.

76. Nothing in this Act shall be construed to prevent any person from being prosecuted and punished under any other enactment for any offence made punishable by this Act or from being prosecuted and punished under this Act for an offence punishable under any other enactment, provided that all such cases shall be subject to the provisions of section 403 of the Code of Criminal Procedure. Prosecution for offences under other enactments not affected by the Act.

1. Inserted by Act 20 of 1951.

(Chapter VII—Miscellaneous)

CHAPTER VII.

MISCELLANEOUS.

Disposal of rewards, etc., payable to Police officers.

77. All sums paid for the service of process by Police officers and all rewards, forfeitures and penalties or shares thereof which are by law payable to Police officers or are awarded to them by Magistrates or granted by officers of Government or others shall, except as hereinafter in this section provided, be credited to Government. Provided that, with the sanction of Government or under any rule made by Government in that behalf, the whole or any portion of any such reward, forfeiture or penalty may, for special services, be paid to Police officers or other persons.

Power of Government to make rules.

78. (1) The Government may make rules consistent with this Act for more effectually carrying out the object thereof and may, from time to time, repeal, alter or amend such rules.

Surveillance, etc., of criminal gangs.

(2) Such rules may, among other matters, provide for the registration, surveillance, and control of gangs or classes of persons believed to be addicted to the systematic commission of crime, and for the recording of finger impressions by the Police of any person who—

(*a*) is in custody for a non-bailable offence, or

(*b*) has no settled abode and is suspected to be addicted to crime, or

(*c*) is a member of a gang or class of persons generally addicted to crime.

Publication of rules.

(3) Every rule under this section shall be published in the Official Gazette in English and Kanarese, and shall come into effect after two months from the date of its first publication.

Penalty for breach of rules.

(4) For every breach of any such rule, the offender shall, on conviction, be punished with imprisonment not exceeding eight days or with fine not exceeding ten rupees.

Method of proving orders and notifications issued under Act.

79. Any order or notification published or issued by the Government or by a Magistrate or officer under any provision of this Act, and the due publication and issue thereof, may be proved by the production of a copy thereof in the Official Gazette, or of a copy thereof signed by such

Magistrate or officer and by him certified to be a true copy of an original published and issued according to the provisions of the section of this Act applicable thereto.

Rules and orders not to be deemed invalid on account of defect of form or irregularity in procedure.

80. No rule, order, direction, adjudication, inquiry or notification made or published, and no act done under any provision herein contained or in substantial conformity to the same, shall be deemed illegal, void, invalid or insufficient for any defect of form or publication or any irregularity of procedure.

No Magistrate or Police officer to be liable to any penalty or damages for act done in good faith in pursuance of duty.

81. (1) No Magistrate or Police officer shall be liable to any penalty or to payment of damages on account of any act done in good faith in pursuance or intended pursuance of any duty imposed or any authority conferred on him by any provision of this Act or of any rule, order or direction lawfully made or given thereunder.

No public servant liable as aforesaid for giving effect in good faith to any rule, order or direction issued with apparent authority.

(2) No public servant or person duly appointed or authorised shall be liable as aforesaid for giving effect in good faith to any such order or direction issued with apparent authority by the Government or by a person empowered in that behalf under this Act or any rule made under any provision thereof.

Suits or prosecutions in respect of acts done under colour of duty as aforesaid not to be entertained or to be dismissed if instituted after one year.

(3) In any case of an alleged offence by a Magistrate, Police officer or other person, or of a wrong alleged to have been done by such Magistrate, Police officer or other person, by any act done under colour or in excess of any such duty or authority as aforesaid, or wherein it shall appear to the Court that the offence or wrong if committed or done was of the character aforesaid, the prosecution or suit shall not be entertained, or shall be dismissed, if instituted more than one year after the date of the act complained of.

Tender of amends.

(4) No plaintiff shall recover in any such suit if tender of sufficient amends shall have been made before the institution of such suit or if a sufficient sum of money shall have been paid into Court after institution thereof by or on behalf of the defendant, and, though a decree shall be given for the plaintiff in any such suit, such plaintiff shall not have costs against the defendant, unless the Court shall certify its approbation of the suit.

Act not to affect any law relating to municipalities.

82. Nothing in this Act shall affect any of the provisions of any law in force relating to municipalities.

(*Schedule A*)

SCHEDULE A.

(*See* Section 2)

ENACTMENTS REPEALED.

Number and year of enactment	Title or subject	Extent of repeal
V of 1861 ...	An Act for the Regulation of Police (as extended to the town of Bangalore by Government of India Notifications No. 385, dated the 11th December 1866, and No. 322–I. J., dated the 19th November 1879).	The whole.
III of 1867 ...	For the punishment of public gambling and the keeping of common gaming-houses (as extended to the town of Bangalore by Government of India Notification No. 240, dated the 11th December 1867).	The whole.
1872 ...	Regular Police Rules published under Government of India Notification No. 230—J., dated the 16th October 1872.	The whole, with the exception of the provisions prescribing diaries, books, registers, returns and reports, so far as they are not inconsistent with this Act or rules framed thereunder.

(*Schedule B*)

SCHEDULE B.

(*See* section 10)

FORM I.

FORM OF CERTIFICATE FOR INSPECTOR/SUB-INSPECTOR OF POLICE

The seal of the Inspector-General of Police in Mysore.

A. B.* has been appointed an $\frac{\text{Inspector}}{\text{Sub-Inspector}}$ in the Mysore Police Force..... .....and is vested with the powers, functions and privileges of a Police officer under the Mysore Police Act, 1908.

Dated the .....

(*Signature.*)
Inspector-General of Police.

*PARTICULARS :—

Father's name .....

Race, religion, caste.....

Native place.....

Age.....

Length of previous service, if any.....

FORM II.

FORM OF CERTIFICATE FOR POLICE OFFICER BELOW THE GRADE OF SUB-INSPECTOR.

Seal of the Deputy Commissioner of the District.

A. B.* has been appointed to the Police Force, Mysore, and is vested with the powers, functions and privileges of a Police officer under the Mysore Police Act, 1908.

Dated the.....

(*Signature.*)
Deputy Commissioner.

*PARTICULARS :—

Father's name.....

Race, religion, caste.....

Native place.....

Age.....

(Preliminary)

MYSORE ACT No. III OF 1910.

THE MYSORE TREASURE TROVE ACT, 1910.

(Received the assent of His Highness the Maharaja on the 6th day of September 1910.)

An Act to provide a law relating to Treasure Trove.

WHEREAS it is expedient to provide a law relating to Treasure Trove in [1][the State of Mysore except Bellary District] ; His Highness the the Maharaja is pleased to enact as follows :— Preamble.

PRELIMINARY.

1. This Act may be called "The Mysore Treasure Trove Act, 1910." Short title.

It extends to the [1][whole of the State of Mysore except Bellary District]. Extent.

And it shall come into force on the date of the passing thereof. Commencement.

2. The rules for the disposal of Treasure Trove published under the late Mysore Chief Commissioner's Notification No. 6, dated the 17th April 1867, are hereby repealed. Repeal of enactments.

3. In this Act, Interpretation clause.

"Treasure" means anything of any value hidden in the soil, or in anything affixed thereto; "Treasure."

"Deputy Commissioner" means (1) any Revenue Officer in independent charge of a district and (2) any officer appointed by Government to perform the functions of a Deputy Commissioner under this Act. "Deputy Commissioner."

When any treasure is discovered in the course of any work done at the express or implied direction of any person, such person shall be deemed to be the finder. "Finder."

When any person is entitled, under any reservation in an instrument of transfer of any land or thing affixed thereto, to treasure in such land or thing, he shall, for the "Owner."

1. See the Mysore Adaptation of Laws Order, 1959.

purposes of this Act, be deemed to be the owner of such land or thing.

Where any land is the property of Government under section 36 of the Land Revenue Code, 1888, the Government shall, for the purposes of this Act, be deemed to be the owner of the land or thing affixed thereto.

PROCEDURE ON FINDING TREASURE.

Notice by finder of treasure.

4. Whenever any treasure exceeding in amount or value ten rupees is found, the finder shall, as soon as practicable, give to the Deputy Commissioner notice in writing—

(*a*) of the nature and amount or approximate value of such treasure;

(*b*) of the place in which it was found; and

(*c*) of the date of the finding;

and either deposit the treasure in the nearest Government Treasury, or give the Deputy Commissioner such security as the Deputy Commissioner thinks fit, to produce the treasure at such time and place as he may from time to time require.

Notification requiring claimants to appear.

5. On receiving a notice under section 4, the Deputy Commissioner shall, after making such enquiry (if any) as he thinks fit, take the following steps (namely):—

(*a*) He shall publish a notification in such manner as the Government from time to time prescribes in this behalf, to the effect that, on a certain date (*mentioning it*) certain treasure (*mentioning its nature, amount and approximate value*) was found in a certain place (*mentioning it*); and requiring all persons claiming the treasure, or any part thereof, to appear personally or by agent before the Deputy Commissioner on a day and at a place therein mentioned, such day not being earlier than four months, or later than six months after the date of the publication of such notification;

(*b*) When the place in which the treasure appears to the Deputy Commissioner to have been found was, at the date of the finding, in the possession of, or belonged to, some person other than the

(*Procedure on Finding Treasure*)

finder, the Deputy Commissioner shall also serve on such person a special notice in writing to the same effect.

Forfeiture of right on failure to appear.

6. Any person having any right to such treasure or any part thereof, as owner of the place in which it was found or otherwise, and not appearing as required by the notification issued under section 5, shall forfeit such right.

Matters to be enquired into and determined by the Deputy Commissioner.

7. On the day notified under section 5, the Deputy Commissioner shall cause the treasure to be produced before him and shall enquire as to and determine—

(*a*) the person by whom, the place in which, and the circumstances under which, such treasure was found ; and

(*b*) as far as is possible, the person by whom, and the circumstances under which, such treasure was hidden.

Time to be allowed for suit by person claiming the treasure.

8. If upon an enquiry made under section 7, the Deputy Commissioner sees reason to believe that the treasure was hidden within one hundred years before the date of the finding by a person appearing as required by the said notification and claiming such treasure, or by some other person under whom such person claims, the Deputy Commissioner shall make an order adjourning the hearing of the case for such period as he deems sufficient, to allow of a suit being instituted in the Civil Court by the claimant to establish his right :

Provided that in the event of the claimant succeeding in his suit, it shall be competent to the Civil Court to award the finder a reward not exceeding one-fourth the value of the treasure.

When treasure may be declared ownerless.

9. If, upon such enquiry, the Deputy Commissioner sees no reason to believe that the treasure was so hidden ; or

if, where a period is fixed under section 8, no suit is instituted as aforesaid within such period to the knowledge of the Deputy Commissioner ; or

if such suit is instituted within such period, and the plaintiff's claim is finally rejected ;

the Deputy Commissioner may declare the treasure to be ownerless.

(*Procedure on Finding Treasure*)

Appeal against such declaration.

Any person aggrieved by a declaration made under this section may appeal against the same within two months from the date thereof to the Government ;

subject to such appeal, every such declaration shall be final and conclusive.

Proceedings subsequent to declaration.

10. When a declaration has been made in respect of any treasure under section 9, such treasure shall be disposed of in accordance with the provisions hereinafter contained.

When no other person claims as owner of place, treasure to be given to finder.

11. When a declaration has been made as aforesaid in respect of any treasure and no person other than the finder of such treasure has appeared, as required by the notification published under section 5, and claimed a share as owner of the place in which it has been found or otherwise, the Deputy Commissioner shall, subject to the provisions of section 16, deliver such treasure to the finder thereof.

When only one such person claims, and his claim is not disputed, treasure to be divided.

12. When a declaration has been made as aforesaid in respect of any treasure, and only one person other than the finder of such treasure has so appeared and claimed and the claim of such person is not disputed by the finder, the Deputy Commissioner shall proceed to divide the treasure between the finder and the person so claiming according to the following rule (namely) :—

If the finder and the person so claiming have not entered into any agreement then in force as to the disposal of the treasure, one-half of the treasure not exceeding a lakh of rupees in amount or value shall be allotted to such finder and the remainder to such person. If such finder and such person have entered into any such agreement, the treasure shall be disposed of in accordance therewith :

Provided that the Deputy Commissioner may, in any case, if he thinks fit, instead of dividing any treasure as directed by this section,

(*a*) allot to either party the whole or more than his share of such treasure on such party paying to the Deputy Commissioner for the other party such sum of money as the Deputy Commissioner may fix as the equivalent of the share of such other party or of the excess so allotted, as the case may be ; or

(*Procedure on Finding Treasure*)

(*b*) with the sanction of Government, and subject to its instructions, if any, sell such treasure or any portion thereof by public auction and divide the sale proceeds between the parties according to the rule hereinbefore prescribed:

Provided also that when the Deputy Commissioner has, by his declaration under section 9, rejected any claim made under this Act by any person other than the said finder or person claiming as owner of the place in which the treasure was found or otherwise such division shall not be made until after the expiration of two months without an appeal having been presented under section 9 by the person whose claim has been so rejected or, when an appeal has been so presented, after such appeal has been dismissed.

And shares to be delivered to parties.

When the Deputy Commissioner has made a division under this section, he shall deliver to the parties the portions of such treasure or the money in lieu thereof, to which they are respectively entitled under such division.

In case of dispute as to ownership of place, proceedings to be stayed.

13. When a declaration has been made as aforesaid in respect of any treasure, and two or more persons have appeared as aforesaid and each of them claimed as owner of the place where such treasure was found or otherwise, or the right of any person who has so appeared and claimed is disputed by the finder of such treasure, the Deputy Commissioner shall retain such treasure, and shall make an order staying his proceedings with a view to the matter being enquired into and determined by a Civil Court.

Settlement of such dispute.

14. Any person who has so appeared and claimed may, within one month from the date of such order, institute a suit in the Civil Court to obtain a decree declaring his right; and in every such suit, the finder of the treasure and all persons disputing such claim before the Deputy Commissioner shall be made defendants.

And division thereupon.

15. (1) If any such suit is instituted and the plaintiff's claim is finally established therein, the Deputy Commissioner shall, subject to the provisions of section 12, divide the treasure between him and the finder.

(2) If no such suit is instituted as aforesaid, or if the claims of the plaintiffs in all such suits are finally

rejected, the Deputy Commissioner shall deliver the treasure, subject to the provisions of section 16, to the finder.

If value of treasure exceeds one lakh, finder to get one lakh, the excess going to Government in specified cases.

16. If, in the case referred to in section 11 or in sub-section (2) of section 15, the amount or value of the treasure found exceeds one lakh of rupees, the Deputy Commissioner shall deliver so much of the treasure as is of the amount or value of one lakh of rupees to the finder and shall declare the excess to be at the disposal of Government.

Power to acquire the treasure on behalf of Government.

17. The Deputy Commissioner may, at any time after making a declaration under section 9 and before delivering or dividing the treasure as hereinbefore provided, declare, by writing under his hand, his intention to acquire on behalf of the Government the treasure or any specified portion thereof by payment to the persons entitled thereto of a sum equal to the value of the materials of such treasure or portion, together with one-fifth of such value, and may place such sum in deposit in his treasury to the credit of such persons, and thereupon such treasure or portion shall be deemed to be the property of Government and the money so deposited shall be dealt with, as far as may be, as if it were such treasure or portion.

Decision of Deputy Commissioner final and no suit to lie against him for acts done *bona fide*.

18. No decision passed or act done by the Deputy Commissioner under this Act shall be called in question by any Civil Court, and no suit or other proceeding shall lie against him for anything done in good faith in exercise of the powers hereby conferred.

Deputy Commissioner to exercise powers of Civil Court.

19. A Deputy Commissioner making any enquiry under this Act may exercise any power conferred by the Code of Civil Procedure on a Civil Court for the trial of suits ; and the provisions of Chapter VII of the Code of Civil Procedure shall, so far as may be, apply to proceedings under this Act.

Power to make rules.

20. The Government may, from time to time, make rules, consistent with this Act, to regulate proceedings hereunder and, generally, all matters not provided for

(*Penalties*)

herein. Such rules shall, on being published in the official Gazette, have the force of law.

PENALTIES.

Penalty on finder failing to give notice, etc.

21. If the finder of any treasure fails to give the notice or does not either make the deposit or give the security required by section 4, or alters or attempts to alter such treasure so as to conceal its identity, the share of such treasure or the money in lieu thereof to which he would otherwise be entitled shall vest in the Government and he shall, on conviction before a Magistrate, be punished with imprisonment for a term which may extend to one year or with fine or with both.

Penalty on owner abetting offence under section 21.

22. If the owner of the place in which any treasure is found abets, within the meaning of the Indian Penal Code, any offence under section 21, the share of such treasure or the money in lieu thereof to which he would otherwise be entitled shall vest in the Government, and he shall, on conviction before a Magistrate, be punished with imprisonment which may extend to six months or with fine or with both.

MYSORE ACT No. IV OF 1910.

THE ADMINISTRATOR-GENERAL OF MADRAS (RECOGNITION) ACT, 1910.

(Received the assent of His Highness the Maharaja on the 1st day of December 1910.)

An Act to recognise the representative character of the Administrator-General of Madras.

Preamble.

WHEREAS the provisions of the Administrator-General's Act, 1874 (II of 1874), of the Governor-General of India in Council apply as a personal law only to British subjects in the [1][whole of the State of Mysore except Bellary District] and whereas it is expedient to make better provision for the recognition in the said territories of the representative title of the Administrator-General of Madras against all debtors of, and all persons holding property belonging to, deceased British subjects in the said territories; His Highness the Maharaja is pleased to enact as follows :—

Administrator-General competent to represent deceased British subjects in Mysore.

1. The Administrator-General of the Presidency of Madras as defined in the Administrator-General's Act, 1874 (II of 1874), shall be competent to represent a deceased British subject leaving assets in the [1][whole of the State of Mysore except Bellary District].

Probate or letters of Administration granted to Administrator-General to supersede the grant of letters of administration to certain other persons.

2. Where probate or letters of administration to any such deceased British subject have been duly granted to the Administrator-General of Madras, no person claiming merely as a creditor or a legatee other than a universal legatee or a friend of the deceased shall be entitled to letters of administration to the deceased, and letters of administration, if any, already granted to any such person shall be liable to be recalled and revoked at the instance of the said Administrator-General.

Effect of probate or letters of administration granted to the Administrator-General by the High Court of Judicature, Madras.

3. Probate or letters of administration granted by the High Court of Judicature at Madras to the Administrator-General of Madras shall have effect over all the property and estate, movable or immovable, of a deceased British subject in the [1][whole of the State of Mysore except Bellary District], and shall be conclusive as to the representative title of the said Administrator-General against all

1. See the Mysore Adaptation of Laws Order, 1953.

debtors of the deceased and all persons holding property therein which belongs to him, and shall afford full indemnity to all debtors paying their debts and all persons delivering up such property to the said Administrator-General.

High Court of Judicature at Madras deemed to be a Court of competent jurisdiction within the meaning of sections 187 and 190 of the Indian Succession Act.

4. So far as regards the Administrator-General of Madras, the High Court of Judicature at Madras shall be deemed to be a Court of competent jurisdiction within the meaning of sections 187 and 190 of the Indian Succession Act, 1865 (X of 1865), as applied to the territories of Mysore by Foreign Department Notification No. 203, dated the 23rd July 1868.

Probate or letters of administration granted by the High Court of Judicature at Madras deemed to be probate or letters within the meaning of the Succession Certificate Act.

5. Probate or letters of administration granted by the High Court of Judicature at Madras to the Administrator-General of Madras shall be deemed to be probate or letters of administration within the meaning of section 4, sub-section (b), clause (i), of the Succession Certificate Act, VII of 1901.

Administrator-General may sue and be sued in his representative character as such.

6. All suits and other proceedings commenced by or against the Administrator-General of Madras in his representative character in respect of property belonging to a deceased British subject in the [1][whole of the State of Mysore except Bellary District] may be brought by or against him by his name of office in the Courts of the said territories, and no suit or other proceeding heretofore or hereafter commenced by or against any person as the Administrator-General of Madras, either alone or jointly with any other person, shall abate by reason of the death, resignation or removal from office of the said Administrator-General, but the same may, by order of the said

1. See the Mysore Adaptation of Laws Order, 1963.

Courts and upon such terms as to the service of notices or otherwise as the Courts may direct, be continued by or against his successor immediately upon his appointment in the same manner as if no such death, resignation or removal had occurred :

Proviso.

Provided that nothing hereinbefore contained shall render any such successor personally liable for any costs incurred prior to the order for continuing the suit against him.

Creditor's suit against Administrator-General.

7. If any suit be brought in the Courts of the [1][whole of the State of Mysore except Bellary District] by a creditor against the Administrator-General of Madras in his representative character, the plaintiff shall be liable to pay the costs of the suit down to and including the decree, unless upon proof by affidavit or otherwise that not less than one month previous to the institution of the suit he had applied in writing to the said Administrator-General, stating the amount and other particulars of the claim and supporting the same by such evidence as, under the circumstances of the case, the Administrator-General was reasonably entitled to require, and that the Administrator-General had refused or neglected to register the claim according to the practice of his office.

If in any such suit judgment is pronounced in favour of the plaintiff, he shall, nevertheless, be only entitled to payment out of the assets of the deceased equally and rateably with other creditors.

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1. See the Mysore Adaptation of Laws Order, 1958.

(*Poisons generally*)

MYSORE ACT No. V OF 1910.

THE MYSORE POISONS ACT, 1910.

(Received the assent of His Highness the Maharaja on the 2nd day of December 1910).

An Act to provide for the regulation of the possession and sale of all poisons in certain local areas, and the importation, possession and sale of white arsenic generally.

Preamble.

WHEREAS it is expedient to make provision for regulating the possession and sale of all poisons in certain local areas, and the importation, possession and sale of white arsenic throughout the [1][whole of the State of Mysore except Bellary District] ; His Highness the Maharaja is pleased to enact as follows :—

Short title and extent.

1. (1) This Act may be called "The Mysore Poisons Act, 1910."

(2) It extends to the [1][whole of the State of Mysore except Bellary District].

POISONS GENERALLY.

Power to regulate possession for sale and sale of any poison in certain areas.

2. (1) The Government may, by rule, regulate within the limits of any Municipality the possession for sale and the sale, whether wholesale or by retail, of any specified poison.

(2) In particular and without prejudice to the generality of the power conferred by sub-section (1), rules made thereunder may provide for, amongst other matters—

(*a*) the grant of licenses to possess any specified poison for sale, wholesale or by retail, and the fixing of the fee (if any) to be charged for such licenses ;

(*b*) the classes of persons to whom alone such licenses may be granted ;

(*c*) the classes of persons to whom alone any such poison may be sold ;

1. See the Mysore Adaptation of Laws Order, 1958.

(*d*) the maximum quantity of any such poison which may be sold to any one person;

(*e*) the maintenance by vendors of any such poison of registers of sales, the particulars to be entered in such registers, and the inspection of the same;

(*f*) the safe custody of such poisons and the labelling of the vessels, packages or coverings in which any such poison is sold or possessed for sale; and

(*g*) the inspection and examination of any such poison when possessed for sale by any such vendor.

(3) Any substance specified as a poison in a rule made under this section shall be deemed to be a poison for the purposes of this Act.

WHITE ARSENIC.

Power to prohibit importation into [1][the State of Mysore except Bellary District] of white arsenic except under license.

3. The Government may, by notification in the official Gazette, prohibit, except under and in accordance with the conditions of a license, the importation of white arsenic into [1][the State of Mysore except Bellary District] and may, by rule, regulate the grant of licenses and prescribe the conditions to be imposed thereby under this section.

Power to regulate possession for sale and sale of white arsenic throughout the State.

4. (1) The Government may, by rule, also regulate within the whole, or any part, of [1][the State of Mysore except Bellary District] the possession for sale and the sale, whether wholesale or by retail, of white arsenic.

(2) In particular, and without prejudice to the generality of the power conferred by sub-section (1), rules made thereunder may provide, amongst other matters, for all or any of the matters specified in section 2, sub-section (2).

(3) Rules made under sub-section (1) may further provide that no person shall sell any powdered white arsenic unless the same is, before the sale thereof, mixed with soot, indigo or Prussian blue in the proportion of half an ounce of soot, indigo or Prussian blue at least to one pound of the white arsenic, and so in proportion for any greater or less quantity:

Provided that, where such arsenic is stated by the purchaser to be required for some purpose for which such

1. See the Mysore Adaptation of Laws Order, 1963.

admixture would, according to the representation of the purchaser, render it unfit, such arsenic may be sold, without such admixture, in a quantity of not less than 10 pounds at any one time.

Power to regulate possession of white arsenic in certain tracts.

5. (1) The Government may further, by rule, regulate the possession of white arsenic in any local area in which murder by poisoning with that drug or the offence of mischief by poisoning cattle therewith appears to it to be of such frequent occurrence as to render restrictions on the possession thereof desirable.

(2) In making any rule under sub-section (1), the Government may direct that any breach thereof shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both, together with confiscation of the white arsenic in respect of which the breach has been committed, and of the vessels, packages or coverings in which the same is found.

OTHER POISONS.

Power to apply Act to other poisons.

6. (1) The Government may, by notification in the official Gazette, apply to any specified poison other than white arsenic all or any of the provisions of this Act relating exclusively to white arsenic.

(2) Any substance specified as a poison in a notification issued under sub-section (1) shall be deemed to be a poison for the purposes of this Act.

PENALTIES AND PROCEDURE.

Penalty for unlawful importation, etc.

7. (1) Whoever—

(*a*) commits a breach of any rule made under section 2 or section 4, or sub-section (2) of section 10, or

(*b*) imports into [1][the State of Mysore except Bellary District], without a license, white arsenic the importation of which is for the time being restricted under section 3, or

1. See the Mysore Adaptation of Laws Order, 1956.

(*c*) breaks any condition of a license for the importation of white arsenic granted to him under section 3, shall be punishable,—

(i) on a first conviction, with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both, and

(ii) on a second or subsequent conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

(2) Any poison in respect of which an offence has been committed under this section, together with the vessels, packages or coverings in which the same is found, and, in the case of any offence mentioned in clause (*b*) or clause (*c*) of sub-section (1) any animals and conveyances used in carrying it, shall be liable to confiscation.

Power to issue search warrant.

8. (1) The Inspector-General of Police, or the District Magistrate or the Sub-Divisional Magistrate may issue a warrant for the search of any place in which he has reason to believe or to suspect that any poison is possessed or sold in contravention of this Act or any rule thereunder or that any poison liable to confiscation under this Act is kept or concealed.

(2) The person to whom the warrant is directed may enter and search the place in accordance therewith and the provisions of the Code of Criminal Procedure, 1904, relating to search-warrants shall, as far as may be, be deemed to apply to the execution of the warrant.

Rules.

9. (1) In addition to any other power to make rules hereinbefore conferred, the Government may make rules generally to carry out the purposes and objects of this Act.

(2) Every power to make rules conferred by this Act shall be subject to the condition of the rules being made after previous publication.

(3) All rules made by the Government under this Act shall be published in the official Gazette, and on such publication shall have effect as if enacted in this Act.

(*Savings*)

SAVINGS.

Savings.

10. (1) Nothing in this Act or in any license granted or rule made thereunder shall, save as provided for in sub-section (2) to this section, extend to or interfere with anything done in good faith in the exercise of his profession or business as such—

(*a*) by a medical or veterinary practitioner, or

(*b*) by a chemist or druggist duly qualified to act as such under the law for the time being in force in the United Kingdom, or

(*c*) by a chemist, druggist or compounder dispensing or compounding in compliance with the prescription of a medical or veterinary practitioner, or

(*d*) subject to any rules for the time being in force under section 5, by a tanner or hide merchant.

(2) The Government may, in the case of medical or veterinary practitioners or chemists or druggists vending any poisonous drug to be specified by Government in this behalf, make rules for—

(i) the maintenance by them of registers of sales, the particulars to be entered in such registers and the inspection of the same;

(ii) the safe custody of such drugs and the labelling of the vessels, packages or coverings in which any such drug is sold or possessed for sale; and

(iii) the inspection and examination of any such drugs when possessed for sale by any such person.

(3) Notwithstanding anything hereinbefore contained, the Government may, in its discretion, by general or special order, declare that all or any of the provisions of this Act shall not be deemed to apply to any article, or class of articles of commerce specified in such order, or to any poison, or class of poisons used for any purpose so specified, and may, from time to time, alter or vary any such declaration.

(4) The Government may, by general or special order, exempt any person or class of persons, either generally or in respect of any poison or poisons specified in the order, from the operation of any rule which it is empowered by this Act to make.

THE TANK PANCHAYET ACT, 1911.

Arrangement of Sections

PREAMBLE.

1. (1) Short title.
   (2) Local extent.
   (3) Commencement.
2. Definitions.
3. Constitution of Tank Panchayets.
4. Qualifications for election to Panchayet.
5. Disqualifications for election to Panchayet.
6. Number of elected members of a Panchayet.
7. (*a*) Notification of the constitution of a Panchayet.
   (*b*) Term of office of elected members.
8. (*a*) Liability to removal from office.
   (*b*) Casual vacancies how to be filled up.
9. Patel to be Chairman of Panchayet.
10. The Tank Fund.
11. Consequence of Panchayet coming into existence.
12. Power of Panchayet to apportion repair and maintenance work among raiyats or to carry out work and recover cost from raiyats.
13. (1) Power to sell right of fishing, grazing, etc.
    (2) Power to grant tank bed for cultivation.
14. Power to regulate the issue of water for irrigation.
15. Power to restrict wet cultivation.
16. Tank Panchayet or a Village Panchayet may be entrusted with restoration and improvement of minor tank.
17. Recovery of moneys due to the Tank Fund.
18. Power of Government to abolish Panchayet in case of incompetency, default or abuse of powers.
19. Obligation of the raiyats under the ordinary law unaffected.
20. Protection of members of Panchayet for acts done in good faith.
21. Power of Government to make rules and the matters in regard to which rules may be framed.

MYSORE ACT No. I OF 1911.

THE TANK PANCHAYET ACT, 1911.

(AS AMENDED BY ACTS XII OF 1916, III 1919 AND III OF 1931.)

(Received the assent of His Highness the Maharaja on the 4th day of January 1911.)

WHEREAS, with a view to provide that the obligations of raiyats in regard to the maintenance of major tanks and the restoration, repair and maintenance of minor tanks shall be satisfactorily carried out, it is expedient to constitute Panchayets to have control over the tanks and to administer the funds that may be assigned for their restoration, repair and maintenance; His Highness the Maharaja is pleased to enact as follows:— Preamble.

1. (1) This Act may be called the "Tank Panchayet Act, 1911." Short title.

(2) It extends to the [1][whole of the State of Mysore except Bellary District;] and Local extent.

(3) It shall come into force on the sixth day of February 1911. Commencement.

2. In this Act, unless there is something repugnant in the subject or context,— Definitions.

(1) "Tank" means an irrigation tank and shall include an anikat, a voddu, a talparige, and a channel whether used as a feeder, irrigation or distribution channel and whether drawn from a tank, anikat, river, or water course;

(2) "A major tank" means a tank the annual assessment on whose irrigable area is [2][more than Rs. 300 and includes] such other tanks as the Government may for any reason notify as major tanks;

All other tanks are "Minor tanks";

(3) "Construction" means the creation of a new tank;

(4) "Restoration" means restoring to an efficient condition a tank which from neglect, accident or

1. See the Mysore Adaptation of Laws Order, 1953.
2. Substituted by Act XII of 1916.

other cause, has fallen into disuse or become impaired or less efficient than formerly ;

(5) "Improvement" means increasing the capacity of a tank so as to provide additional water for irrigation or otherwise rendering it more useful for purposes of irrigation ;

(6) " Maintenance " means works of petty repair required to keep or maintain a tank at the standard of safety that may be fixed for it after its construction, restoration or improvement, and includes the following :—

(*i*) The maintenance of the bund to the standard level and with the slopes specified, the specification of the level and slope being in accordance with the existing state of things and being approved both by the Executive Engineer and the Deputy Commissioner of the District ;

(*ii*) The filling up of gullies or other inequalities caused by rain, the treading of cattle or any other cause upon the bunds of tanks and channels ;

(*iii*) The checking of the growth on bunds of prickly-pear, and any similar rank and pernicious weed ;

(*iv*) The clearing of any underwood from the bunds of tanks wherever it may be injurious ;

(*v*) The clearing and repair of the earthwork of petty and branch channels, and the clearing away of the accumulations in sluices and in all channels issuing from tanks, which obstruct the flow of water to the fields ;

(*vi*) The keeping in order the supply channels of tanks ;

(*vii*) The watching of the bunds of all tanks during rainy weather, turfing the parts acted on by the waves, helping in opening and closing the sluice, and generally the performance of minor duties of this nature in order to prevent breaches and other accidents.

(7) " Village " includes a group of villages or any specified area for which a Tank Panchayet may be constituted ;

(8) The expression " customary obligations " means obligations enforceable under the Notification of the Chief Commissioner of Mysore, No. 65, dated the 2nd October 1873, as amended by Government

Notification No. 5262—Agri. 626-03-7, dated the 15th December 1904;

(9) "Raiyats" shall mean the individuals on whom such customary obligations devolve;

(10) "Patel" and "Shanbhog" mean the persons officiating as patel and shanbhog, respectively, of the village, and where there are more than one such patel or shanbhog, such one of the patels and such one of the shanbhogs, respectively, as may be selected by the Deputy Commissioner for the purposes of this Act.

Constitution of Tank Panchayets.

3. For any village for which the Government may consider it expedient to do so, and where a majority consisting of not less than two-thirds of the raiyats and holding in the aggregate not less than half the occupied area of wet lands under the tank so desire, the Government may constitute a panchayet composed of the patel and the shanbhog, and three or more members elected by the raiyats as hereinafter prescribed.

Qualifications for election to Panchayet.

4. Subject to the disqualifications mentioned in Section 5,

(1) every raiyat who—

(*a*) pays an annual assessment of not less than Rs. 20 on wet or garden lands in the village, or

(*b*) pays an annual assessment of not less than Rs. 10 on dry lands in the village, or

(*c*) pays in the village an annual mohatarfa tax of not less than Rs. 5, or

(*d*) pays in the aggregate an amount not less than Rs. 25;

(2) every person who is in possession of an inam, of wet, garden or dry lands in the village, the survey valuation of which is not less than the minimum prescribed in respect of these lands in clauses (*a*) and (*b*), or who is in possession of inam lands in the village the aggregate survey valuation of which added to any mohatarfa tax which he might pay in the village, amounts to not less than Rs. 25, shall be qualified for election to the Panchayet:

Provided that the Government may, by notification published in the official Gazette, reduce, for any local area, the minimum amounts of assessment or mohatarfa tax prescribed above.

Disqualifications for election to Panchayet.

5. No person may be elected as a member of a panchayet,

(*a*) who has been convicted by a Criminal Court of an offence which, in the opinion of the Deputy Commissioner disqualifies him for holding the office, or

(*b*) who is, in the opinion of the Deputy Commissioner, not physically and mentally capable of discharging the duties of his office, or

(*c*) who is less than 21 years of age, or

(*d*) who is not of the male sex:

Provided that an appeal shall lie to the Government against an order passed by the Deputy Commissioner under clauses (*a*) and (*b*).

Number of elected members of a Panchayet.

6. The number of elected members of a Tank Panchayet shall be fixed by the Deputy Commissioner; and of the number so fixed such number, [1][not exceeding one-fourth] as may be decided by the Deputy Commissioner, shall be elected by the raiyats holding dry lands or paying mohatarfa but not holding wet or garden lands, from among themselves; and the rest shall be elected by the raiyats holding wet or garden lands with or without dry lands, from among themselves.

Notification of the constitution of a Panchayet.

7. (*a*) The constitution of a Tank Panchayet and the names of its members shall be notified in the official Gazette.

Term of office of elected members.

(*b*) The elected members of a Tank Panchayet shall hold office for a term of three years.

Liability to removal from office.

8. (*a*) The Deputy Commissioner, if he thinks fit, may, on the recommendation of the Tank Panchayet, and subject to the sanction of Government, remove any member of the Panchayet, if such member has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct, or has become incapable of performing his duties.

Casual vacancies how to be filled up.

(*b*) In the event of the death, resignation, disqualification, disability or removal of a member of a Tank Panchayet previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may

1. Substituted by Act III of 1919.

be, by the election or appointment, as the case may be, of a person thereto, who shall hold office so long only as the member in whose place he is elected or appointed would have held it if the vacancy had not occurred.

Patel to be Chairman of Panchayet.

9. The Patel shall be the Chairman of the Tank Panchayet and shall conduct all correspondence on behalf of the Panchayet.

The Tank Fund.

10. (1) The Panchayet shall have control over a fund to be called the Tank Fund made up of the following items :—

(*a*) the amounts collected from raiyats under section 12 ;

(*b*) the rent or value of the share of produce or the sale proceeds received under section 13 ;

(*c*) such grant out of the Irrigation Cess Fund, as the Government may, from time to time, make to the fund ;

(*d*) any other grant which the Government may make to the fund ;

(*e*) any advance which the Government may make to the Panchayet under section 16 for the execution of the masonry and stone work ; and

(*f*) any loan which the Government may make to the Panchayet for carrying out the purposes of this Act.

(2) The fund shall be deposited in the Government Savings Bank or with any Agricultural Bank or Co-operative Society approved by the Deputy Commissioner, and shall be available to the Panchayet for the maintenance and upkeep of the major and minor tanks ; for special repairs of the minor tanks rendered necessary by extraordinary causes and for the construction, restoration or improvement of any minor tank, which may be entrusted to the Panchayet under section 16.

(3) An account of the administration of the fund during each official year shall be submitted by the Panchayet to the general body of the raiyats at a meeting to be held within one month after the close of the official year.

Consequence of Panchayet coming into existence.

11. When a Tank Panchayet comes into existence under section 3, the enforcement of the customary obligations of the raiyats for the maintenance and upkeep

of all the tanks in the village, shall thereafter vest in the Panchayet :

Provided that the Government may exclude any tank or tanks in the village from the control of the Panchayet.

Power of Panchayet to apportion repair and maintenance work among raiyats or to carry out work and recover cost from raiyats.

12. (1) The Panchayet shall have the power to apportion the work required for the maintenance and upkeep of the tank or tanks under its control among the raiyats according to their respective obligations.

(2) If a raiyat fails to do the work allotted to him or prefers to commute his quota of labour into a money payment, the Panchayet shall itself get the work done out of the funds at its disposal, recovering from him the cost thereof as fixed by it.

(3) For determining the amount to be recovered from a raiyat under the last preceding sub-section, the Panchayet shall have the power to fix the wages of labour per diem, subject to such maximum and minimum rates as may be laid down by the Government.

Power to sell right of fishing, grazing, etc.

13. (1) The Panchayet shall have power to sell—

(*a*) the right of fishing in the tank under its control ;

(*b*) the right of grazing in the tank bed and the right of cutting and removing the grass on the tank bund ; and

(*c*) the produce of the trees in the tank and on the bund, if any.

Power to grant tank bed for cultivation.

(2) The Panchayet shall also have power to grant the bed of the tanks under its control for temporary cultivation of quick-growing crops on such terms as regards payment of rent or share of produce as may be deemed fit by it, provided that it shall be competent to the Deputy Commissioner to prohibit such cultivation in any tank or in any season.

Power to regulate the issue of water for irrigation.

14. For the purpose of irrigation from the tank under its control, a Panchayet shall have power to regulate—

(*a*) the time for the commencement of the issue of water from the tank ;

(*b*) the period during which the supply of water is to continue ; and

(*c*) the quantity of water to be let out from the tank.

Power to restrict wet cultivation.

15. (1) A Tank Panchayet, specially empowered by Government in this behalf may, in any year, having regard to the quantity of water available in any tank under its control,

(*a*) [1][determine the portion of the wet lands in the irrigable area of such tank to be cultivated with wet crops, or with dry or semi-dry crops, and regulate the supply of water for irrigation accordingly ;]

(*b*) select a compact and suitable block as near to the sluice of the tank as possible and parcel it out among the different raiyats who may be desirous of growing sugarcane on such terms as regards the rent or share of the produce to be paid to the holder or holders of the lands comprised within the block as may appear to it to be reasonable and as may be agreed to by such holder or holders.

(2) No such power as is referred to in sub-section (1) shall be conferred on a Tank Panchayet in regard to any tank under its control except with the consent of a majority of not less than two-thirds of the raiyats and holding in the aggregate not less than two-thirds of the occupied area of wet lands under such tank.

(3) If, in accordance with a decision of the Panchayet under clause (*a*) of sub-section (1), any land assessed as wet is not supplied with water [1][for raising wet crops] the holder of such land shall be entitled to remission of half the assessment of such land.

Tank Panchayet or a Village Panchayet may be entrusted with restoration and improvement of minor tank.

16. (1) [1][When the restoration of a minor tank has been sanctioned under[2] Act XV of 1923, a Tank Panchayet or a Village Panchayet empowered under Section 23 of [3] the Village Panchayet Act, 1926, may undertake the execution of the said restoration, under the rules framed by the Government in this behalf.

(2) A Tank Panchayet or a Village Panchayet empowered under section 23 of[3] the Village Panchayet Act, 1926, shall be bound to execute the work undertaken by it under sub-section (1) within the time and according to the specification and constructive details as may be prescribed in this behalf.]

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1. Substituted by Act III of 1931.
2. *Vide* Acts XI of 1949 and VII of 1952.
3. *Vide* Act IV of 1952.

Recovery of moneys due to the Tank Fund.

17. All moneys due to the Tank Fund under section 10 of this Act shall, in default of payment by the person from whom such moneys may be due, and on the application of the Panchayet, be recoverable by the Deputy Commissioner as arrears of land revenue.

Power of Government to abolish Panchayet in case of incompetency, default or abuse of powers.

18. (1) If, in the opinion of the Government, any Tank Panchayet [1][constituted under this Act or any Village Panchayet empowered under section 23 of the Village Panchayet Act, 1926][2] is not competent to perform or persistently makes default in the performance of the duties imposed on it by or under this Act, or otherwise by law, or exceeds or abuses its powers, the Government may, by an order published, with the reasons for making it, in the official Gazette, abolish the [3][Tank Panchayet or withdraw the powers of the Village Panchayet as the case may be.]

(2) [3][Where a Tank Panchayet is abolished or a Village Panchayet is divested of its powers as aforesaid, the Deputy Commissioner shall take charge of the connected funds, if any, and shall enforce the customary obligations of the raiyats in the same manner as if the Tank Panchayet had not been constituted or the Village Panchayet had not been so empowered and may utilise such funds for the purpose referred to in section 10 in the same manner as the Panchayet may have utilised the same.

(3) A Tank Panchayet abolished or a Village Panchayet divested of its powers under sub-section (2) may, after such time as the Government may think fit, be reconstituted or re-empowered as the case may be.]

Obligation of the raiyats under the ordinary law unaffected.

19. Nothing in this Act shall be deemed to relieve the raiyats of any of their obligations under any law, or any rule, order or custom having the force of law, in regard to the restoration, repair and maintenance of tanks.

Protection of members of Panchayet for acts done in good faith.

20. No member of the Panchayet shall be liable to be sued for any act done or ordered to be done in good faith in pursuance of the provisions of this Act.

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1. Inserted by Act III of 1931.
2. *Vide* Act IV of 1952.
3. Substituted by Act III of 1931.

Power of Government to make rules and the matters in regard to which rules may be framed.

21. (1) The Government may, for the whole or any part of [1][the State of Mysore except Bellary District] or for any Panchayet or group of Panchayets, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(*a*) provide for the preparation of lists of persons qualified to vote under sections 6, 15 and 16 and of persons qualified for election to the Panchayet under sections 4 and 5;

(*b*) prescribe the procedure to be adopted at meetings of voters;

(*c*) prescribe the procedure to be adopted by Panchayets at their meetings;

(*d*) prescribe the accounts and books to be kept by Panchayets and provide for the audit of such accounts;

(*e*) prescribe the accounts, returns and reports to be furnished by Panchayets;

(*f*) prescribe the procedure to be followed by Panchayets for collecting their dues.

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1. See the Mysore Adaptation of Laws Order, 1953.

MYSORE ACT No. VII OF 1911.

THE MYSORE PUBLIC CONVEYANCE ACT, 1911.

(Received the assent of His Highness the Maharaja on the 15th day of May 1911.)

An Act to provide for the Regulation and Control of Public Conveyances in [1][the State of Mysore except Bellary District].

WHEREAS it is expedient to provide for the regulation and control of Public Conveyances in the [1][State of Mysore except Bellary District] ; His Highness the Maharaja is pleased to enact as follows :—

Short title, extent and commencement.

1. (1) This Act may be called "The Mysore Public Conveyance Act, 1911."

(2) It extends to the [1][whole of the State of Mysore except Bellary District].

(3) It shall come into force at once. But nothing herein contained shall affect any power conferred by any law relating to Municipalities or any rule made in exercise of any such power.

Repeal.

2. The Bangalore City Hackney Carriage Act, 1887, is hereby repealed.

Savings.

But all rules made by the Municipal Council of the City of Bangalore under the above Act, which may be in force at the time this Act comes into force shall, so far as they are not inconsistent with this Act, be deemed to have been made under this Act.

Definition.

3. In this Act—

"Public Conveyance."

"Public Conveyance" means any vehicle with two or more wheels which is kept or offered or plies for hire of whatever form or construction and whether drawn by men, horses or other animals.

Application of the Act to Municipalities.

4. The Government may, by notification in the official Gazette, apply this Act to any Municipality within [1][the State of Mysore except Bellary District].

Power of Municipalities to make rules.

When the Act has been so applied to any Municipality, the Municipal Council may, from time to time, make rules for the regulation and control of Public Conveyances

1. See the Mysore Adaptation of Laws Order, 1963.

within the limits of such Municipality in the manner in which, under the law for the time being in force, it makes bye-laws for the regulation and control of other matters within its limits.

Every rule made under this section shall, when confirmed by the Government and published for such time and in such manner as the Government may from time to time prescribe, have the force of law.

Power to make rules for areas outside Municipalities.

5. The Government may, from time to time, make rules for the regulation and control of Public Conveyances in any area outside the limits of a Municipality and such rules, when published for such time and in such manner as the Government may from time to time prescribe, shall have the force of law.

Power of a Municipal Council to extend the operation of the rules beyond the limits of the Municipality.

6. A Municipal Council making rules under this Act may, with the previous sanction of the Government, extend their operation to any railway station or specified part of a road not more than six miles from the local limits of the Municipality.

Matters as to which rules may be made.

7. The rules to be made under Section 4 or Section 5 may, among other matters,—

(*a*) direct that no Public Conveyance, or no Public Conveyance of a particular description, shall be let to hire, or taken to ply, or offered for hire, except under a licence granted in that behalf under this Act or within the limits of the City of Bangalore, under the Bangalore Hackney Carriage Act as in force in the Civil and Military Station, Bangalore;

(*b*) direct that no person shall act as driver of a Public Conveyance except under a license granted in that behalf under this Act or within the limits of the City of Bangalore under the Bangalore Hackney Carriage Act as in force in the Civil and Military Station, Bangalore;

(*c*) provide for the issue of the licenses referred to in clauses (*a*) and (*b*), prescribe the conditions (if any) on which such licenses shall be granted, and fix the fees (if any) to be paid therefor;

(*d*) regulate the description of animals, harness and other things to be used with licensed conveyances, and the condition in which such conveyances and the animals, harness, and other things used therewith, shall be kept, and the lights (if any) to be carried after sunset and before sunrise;

(*e*) provide for the inspection of premises on which any such conveyances, animals, harness and other things are kept;

(*f*) fix the time for which such licenses shall continue in force, and the events (if any) upon which within that time they shall be subject to revocation or suspension;

(*g*) provide for the numbering of such conveyances;

(*h*) determine the times at which, and the circumstances under which, any person keeping a public conveyance shall be bound to let or may refuse to let the conveyance to any person requiring the same;

(*i*) appoint places as stands for public conveyances, and prohibit such conveyances waiting for hire except at such places;

(*j*) limit the rate or fares, as well for time as distance, which may be demanded for the hire of any public conveyance, and prescribe the minimum speed at which such conveyances when hired by time shall be driven;

(*k*) limit the number of persons, and the weight of property, which may be conveyed by any such conveyance;

(*l*) require the owner or person in charge of any such conveyance to keep a printed list of fares in such language as may be prescribed, affixed inside such conveyance in such place as may be determined by the rules, and prohibit the destruction or defacement of such list;

(*m*) require the drivers to wear a numbered badge or ticket and to produce their licenses when required by a Magistrate or other person authorised by the rules in this behalf, and prohibit the transfer or lending of such licenses and badges;

(*n*) provide for the deposit of property found in such conveyances and the payment of a fee by the owner of such property on the delivery thereof to him; and

(*o*) prohibit the employment in Public Conveyances of animals which by reason of disease, infirmity, wound, sore, or other cause are unfit for such employment.

Punishment for breach of rules.

8. (1) Any person breaking any rule made under this Act shall be punished with fine which may extend to fifty rupees.

Licenses when subject to revocatio or suspensio

(2) A license granted under the rules under Section 7 above shall be subject to revocation or suspension upon the happening of any event prescribed by the rules under which the license is granted and, in the case of a license granted by the Municipal Council of the City of Bangalore, also upon the happening of any event upon which it would be so subject under the law in force in the Civil and Military Station, Bangalore.

Fees and expenses.

9. The amount of any fees received and the amount of any expenses incurred in giving effect to this Act shall, in any Municipality, be credited and debited, respectively, to the Municipal Fund and in any other case, to such fund as the Government may, by general or special order, direct.

Decision of disputes between hirer and owner or driver of conveyance.

10. If any dispute arises between the hirer of any public conveyance and the owner or driver of such conveyance as to the amount of the fare payable by such hirer under any rule made under this Act, such dispute shall, upon application made in that behalf by either of the disputing parties, be heard and determined by any Magistrate or Bench of Magistrates within the local limits of whose jurisdiction such dispute has arisen; and such Magistrate or Bench may, besides determining the amount so in dispute, direct that either party shall pay to the other such sum as compensation for loss of time as such Magistrate or Bench thinks fit.

Any sum determined to be due or directed to be paid under this section shall be recoverable as if it were a fine.

The decision of such Magistrate or Bench in any case under this section shall be final.

When any such case is heard by a Bench, any difference of opinion arising between the members of such Bench shall be settled in the same manner as differences of opinion arising between such members in the trial of criminal cases.

Driver to take hirer in conveyance to Court of Magistrate.

11. If, at the time any dispute mentioned in Section 10 arises, any Magistrate having jurisdiction in respect of such dispute is sitting, the hirer of the conveyance, if it is one for the conveyance of passengers, may require the driver thereof to take him in the same to the Court of such Magistrate for the purpose of making an application under that section.

Any driver neglecting or refusing to comply with such requisition shall be punished with imprisonment for a term which may extend to one month, or with fine not exceeding fifty rupees, or with both.

Penalty for injuring conveyance.

12. If any person using a Public Conveyance under this Act wilfully or negligently injures the same, he shall be punished with a fine which may extend to twenty rupees and shall also pay to the owner of the Public Conveyance compensation for the injury, the amount of the compensation to be fixed by the convicting Magistrate, and to be recovered as a fine.

MYSORE ACT No. VIII OF 1911.

THE MYSORE SMALL CAUSE COURTS ACT, 1911.

(AS AMENDED BY ACT VI OF 1928.)

(Received the assent of His Highness the Maharaja on the 19th day of June 1911).

An Act to consolidate and amend the law relating to Courts of Small Causes in [the State of Mysore except Bellary District].

WHEREAS it is expedient to consolidate and amend the law relating to Courts of Small Causes in [1][the State of Mysore except Bellary District]; His Highness the Maharaja is pleased to enact as follows:–

Title, extent and commencement.

1. (1) This Act may be called "The Mysore Small Cause Courts Act, 1911".

(2) It extends to the [whole of the State of Mysore except Bellary District.]

(3) It shall come into force on the 1st day of July 1911.

But the Provisions of section 8 shall come into force only in such Courts and from such dates as may be notified by Government in the official Gazette.

Repeal of Act XI of 1865.

2. (*a*) From and after that date, Act XI of 1865, as applied to Mysore by the notification of the Government of India in the Foreign Department No. 31—I.J., dated the 28th January 1880, shall be repealed.

Amendment of the Mysore Civil Courts Act.

(*b*) The enactment referred to in Schedule II is amended to the extent specified therein.

Construction of references to Act XI of 1865.

(*c*) Any enactment or document referring to Act XI of 1865 shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.

Savings.

3. Nothing in this Act shall be construed to affect—

(*a*) any proceedings before or after decree in any suit instituted before the commencement of this Act; or

(*b*) any local or any special law other than the Code of Civil Procedure.

1. See the Mysore Adaptation of Laws Order, 1953.

Cognizance of suits by Courts of Small Causes.

4. All suits of the classes specified in Schedule I in which no relief is claimed in respect of immovable property and of which the value does not exceed such sum not exceeding Rs. 500 as may be fixed in each case by the Government in this behalf, shall be cognizable by a Court of Small Causes; and no other suits shall be so cognizable:

Provided that the Government may at any time add to or vary the schedule by a Notification published in the official Gazette.

[1][Exception.—A suit in ejectment based on leases of immovable property in writing, other than agricultural leases, is not a suit in respect of immovable property within the meaning of this section.]

Exclusive jurisdiction of Courts of Small Causes.

5. Save as expressly provided by this Act or by any other enactment for the time being in force, a suit cognizable by a Court of Small Causes shall not be tried by any other Court having jurisdiction within the local limits of the jurisdiction of the Court of Small Causes by which the suit is triable.

Return of plaints in suits involving questions of title to immovable property.

6. (1) Notwithstanding anything in the foregoing portion of this Act, when the right of a plaintiff and the relief claimed by him in a Court of Small Causes depend upon the proof or disproof of a title to immovable property, the Court may, at any stage of the proceedings, return the plaint to be presented to a Court having jurisdiction to determine the title.

(2) When a Court returns a plaint under sub-section (1), it shall comply with the provisions of the Code of Civil Procedure regarding the return of plaints and make such order with respect to costs as it deems just and the Court shall, for the purposes of the [2]Mysore Limitation Act, be deemed to have been unable to entertain the suit by reason of a cause of a nature like to that of defect of jurisdiction.

Non-suiting in certain cases.

7. In every case in which satisfactory proof shall not be given entitling either the plaintiff or the defendant to judgment, a Court of Small Causes shall have power to non-suit the plaintiff, subject to such orders as to costs as the Court may in each case think fit: provided that a plaintiff who has been non-suited under this section may, subject to the law of limitation, bring a fresh suit on the same cause of action.

1. Added by Act VI of 1928.
2. See Part B States (Laws) Act 1951 (Central Act III of 1951.)

Trial by composite Court.

8. In all suits where the amount claimed shall exceed fifty rupees, it shall be lawful for the plaintiff or the defendant to require the suit to be tried by a composite Court, on his depositing such costs and furnishing such security and giving such notice as may be determined by the Court, in accordance with rules to be framed in this behalf by the High Court.

Where such an application has been made and allowed, the case shall be heard by a Court composed of the Judge before whom the suit has been instituted and three jurors to be selected in accordance with rules to be framed in this behalf by the High Court.

The Judge shall settle what are the questions of law and what the questions of fact arising in the case, and he shall have the sole power to decide the questions of law. He shall preside at the trial and shall have a casting vote whenever the members are equally divided in opinion, and judgment shall be delivered in accordance with the opinion of the majority of the members of the composite Court on all questions of fact.

The rules to be framed by the High Court under this section shall be subject to the previous sanction of Government.

Appeals from certain orders of Courts of Small Causes.

9. Where an order specified in Section 104, clause (1) (*h*) of the Code of Civil Procedure, is made by a Court of Small Causes, an appeal therefrom shall lie to the District Court.

Revision of decrees and orders of Courts of Small Causes.

10. The High Court, for the purpose of satisfying itself as to the correctness, legality or propriety of a decree or order made in any case decided by a Court of Small Causes, may call for the case and pass such order with respect thereto as it thinks fit.

Finality of decrees and orders.

11. Save as provided by this Act, a decree or order made under the foregoing provisions of this Act by a Court of Small Causes shall be final.

Application of Act and Code to Court invested with the jurisdiction of a Court of Small Causes as to two Courts.

12. A Court invested with the jurisdiction of a Court of Small Causes, with respect to the exercise of that jurisdiction, and the same Court with respect to the exercise of its jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, shall, for the purposes of this Act and the Code of Civil Procedure, be deemed to be different Courts :

Provided that when in exercise of the jurisdiction of a Court of Small Causes, a Court invested with that

jurisdiction sends a decree for execution to itself as a Court having jurisdiction in suits of a civil nature which are not cognizable by a Court of Small Causes, it shall not be necessary, unless the Court otherwise directs, to send the documents prescribed by the Code of Civil Procedure in the case of transfer of decrees for execution from one Court to another.

Continuance of proceedings of abolished Courts.

13. (1) Where a Court of Small Causes or a Court invested with the jurisdiction of a Court of Small Causes has from any cause ceased to have jurisdiction with respect to any case, any proceeding in relation to the case, whether before or after decree, which, if the Court had not ceased to have jurisdiction, might have been had therein, may be had in the Court which, if the suit out of which the proceeding has arisen were about to be instituted, would have jurisdiction to try the suit.

(2) Nothing in this section applies to cases for which special provision is made in the Code of Civil Procedure, as extended to Courts of Small Causes, or in any other enactment for the time being in force.

SCHEDULE I.

SUITS COGNIZABLE BY COURTS OF SMALL CAUSES.

Section 4.

(1) A suit for money lent.
(2) A suit for money by or against a surety.
(3) A suit for the price of goods sold.
(4) A suit for money on a contract for work and labour.
(5) A suit for money on a contract of hiring and service.
(6) A suit for rent or for a share of produce when there is an express agreement to pay.
(7) A suit for payment for board or lodging.
(8) A suit for money received by defendant for plaintiff's use.
(9) A suit for money paid to defendant by mistake or money overpaid.
(10) A suit for money paid or value of goods delivered at defendant's request.
(11) A suit for damages for breach of a contract of sale of goods.
(12) A suit for money deposited.
(13) A suit for recovery of specific movable property pledged or deposited with the defendant or its value.
(14) A suit for the recovery of purchase money or earnest paid in respect of movable property where the sale has fallen through.
(15) A suit for the recovery of money entrusted to a person for a particular purpose but not so utilised.
(16) A suit for damages for use and occupation of immovable property (in cases where rent is not claimable as such).
(17) A suit for damages for loss of or injury to goods entrusted to defendants.
(18) A suit for reimbursement, restoration or compensation in cases falling under Sections 69 and 76 of the Contract Act, except as between members of a joint or undivided family or co-owners.
(19) A suit for contribution.
(20) A suit upon a foreign judgment where it has been obtained in respect of a suit which according to the law in force in Mysore is in the nature of a Small Cause Suit.
(21) A suit for maintenance based on a contract in writing.
[1][(22) Suits in ejectment based on leases of immovable property other than agricultural leases, which are in writing.]

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1. Added by Act VI of 1923.
Items 1 to 21 were substituted by Notification No. P. 2207—Cts. 135-22-5, dated 26—28th November 1927.

SCHEDULE II.

AMENDMENT OF THE MYSORE CIVIL COURTS ACT I OF 1883.

Section 3.—The word "four" shall be substituted for the word "three" and the words "4thly, the Court of Small Causes" shall be inserted after the words "3rdly, the Court of the Munsiff".

Section 4 (*a*).—The words "and of the Courts of Small Causes" shall be inserted after the word "Munsiffs".

Section 5.—The words "or of a Court of Small Causes" shall be inserted after the word "Munsiff".

Section 10-A.—After section 10, the following new section shall be added, namely,—

> "10-A. The jurisdiction of a Court of Small Causes shall be regulated in accordance with the law relating to such Courts for the time being in force in Mysore."

Section 19.—The conjunction "or" occurring after the words "Subordinate Judge" shall be omitted and the words "or a Judge of a Court of Small Causes" shall be inserted after the word "Munsiff."

Section 21.—The word "and" occurring before the word "Munsiffs" shall be omitted and the words "and Judges of Courts of Small Causes" shall be inserted after the said word.

MYSORE ACT No. XI OF 1911.

THE PREVENTION OF JUVENILE SMOKING ACT, 1911.

(Received the assent of His Highness the Maharaja on the 9th day of October 1911.)

An Act to provide for the Prevention of Smoking by Juveniles.

WHEREAS it is expedient to provide for the prevention of smoking by youthful persons in [1][the State of Mysore except Bellary District]; His Highness the Maharaja is pleased to enact as follows :— Preamble.

1. (1) This Act shall be called "The Prevention of Juvenile Smoking Act, 1911." Short title.

(2) It shall extend to the [1][whole of the State of Mysore except Bellary District] ; and Extent and commencement.

(3) It shall come into force in such areas and from such date as may be notified by the Government in the official Gazette in this behalf.

2. In this Act unless there is something repugnant in the subject or context— Interpretation.

"Police Officer" shall mean a member of the Regular Police Force appointed under the Mysore Police Act, 1908, as well as a member of the Village Police Force appointed under the Rules for the organisation and regulation of the Village Police for the time being in force. "Police Officer."

"Tobacco" shall mean tobacco cut or uncut and includes any preparation or mixture of tobacco with other substances for the purpose of smoking or chewing or taking in as snuff. "Tobacco."

3. If any person sells to a person actually and by appearance under the age of sixteen years, except on the written order of the parent, guardian or employer of such last-named person, any tobacco, he shall be liable, on conviction before a Magistrate, in the case of a first conviction, to a fine not exceeding twenty rupees, and in the case of a second conviction to a fine not exceeding fifty rupees, Penalty on selling tobacco to youthful persons.

1. See the Mysore Adaptation of Laws Order, 1958.

and in the case of a third and every subsequent conviction, to a fine not exceeding one hundred rupees.

Seizure of tobacco.

4. It shall be the duty of a Police Officer to seize any tobacco in the possession of any person apparently under the age of sixteen whom he finds smoking, or chewing or taking in as snuff, tobacco in any street or public place.

Tobacco seized how dealt with.

5. The articles seized under the last preceding section together with the person from whom they were seized shall be forthwith taken to the nearest Police Station, and the Officer in charge of such Police Station shall take down the name and address of the person's parent or guardian and ascertain if he is a pupil of any public school and at once set him free.

Notice to be given after seizure.

6. The Officer in charge of the said Police Station shall then send a notice of such seizure to the parent or guardian and to the Head Master of the school.

Person found with tobacco how dealt with.

7. If a person who has once been set free under section 5 is again apprehended after a lapse of three months from the date of issue of any notice under the last preceding section, he may be sent in custody before the nearest Magistrate as soon as possible, unless an undertaking in writing is given by the parent or guardian or some other respectable person to produce him whenever required, in which case, he shall be forthwith released.

Punishment.

8. When a person under sixteen years of age is produced before a Magistrate under the last preceding section, such Magistrate may either discharge him with a warning or inflict on him a fine not exceeding one rupee or order him to receive six stripes in the way of school discipline.[1] Provided that no imprisonment shall be awarded in default of payment of fine.

Whipping.

9. Any sentence of whipping[1] passed under this Act shall be administered privately in the presence of the Magistrate.

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1. *Vide* Section 2, Mysore Act XIII of 1949.

MYSORE ACT No. I OF 1912.

[1]THE MYSORE JUDICIAL OFFICERS' PROTECTION ACT, 1912.

(Received the assent of His Highness the Maharaja on the eighth day of March 1912.)

An Act for the protection of Judicial Officers.

Preamble.

WHEREAS it is considered expedient to provide for the greater protection of Judges, Magistrates and others acting judicially; His Highness the Maharaja is pleased to enact as follows:—

Non-liability to suit of officers acting judicially for official acts done in good faith and of officers executing warrants and orders.

1. No Judge, Magistrate, Deputy Commissioner or other person acting judicially shall be liable to be sued in any Civil Court for any act done or ordered to be done by him in the discharge of his judicial duty whether or not within the limits of his jurisdiction:

Provided that he, at the time, in good faith, believed himself to have jurisdiction to do or order the act complained of:

And no officer of any Court or other person, bound to execute the lawful warrants or orders of any such Judge, Magistrate, Deputy Commissioner or other person acting judicially shall be liable to be sued in any Civil Court, for the execution of any warrant or order, which he would be bound to execute, if within the jurisdiction of the person issuing the same.

2. Section 152A of the Code of Civil Procedure, 1911, shall be repealed.

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1. See Mysore Act VIII of 1949.

MYSORE ACT No. VII OF 1913.

THE MYSORE VILLAGE COURTS ACT, 1913.

(AS AMENDED BY ACTS III OF 1917, IX OF 1920, VI OF 1923 AND XI OF 1928.)

(Received the assent of His Highness the Maharaja on the eleventh day of October 1913.)

An Act for the Establishment of Village Courts in [1][the State of Mysore except Bellary District].

Preamble.

WHEREAS it is expedient to provide for the establishment of Village Courts in [1][the State of Mysore except Bellary District]; His Highness the Maharaja is pleased to enact as follows :—

CHAPTER I.

PRELIMINARY.

Title, commencement and local extent.

1. (1) This Act may be called "The Mysore Village Courts Act 1913."

(2) It shall come into force on the first day of January 1914.

(3) It shall extend to such village or villages in [1][the State of Mysore except Bellary District] as may, from time to time, be notified by Government in the official Gazette.

Interpretation clause.

2. In this Act, unless there is something repugnant in the subject or context,—

"Village."

"Village" means a local area recognized by Government from time to time as a village for purposes of collecting the land revenue and includes any area for which a Village Court may be established under this Act.

"District Judge and "Munsiff."

[2]["District Judge" means the District Judge of the District in which the Village Court is situate.

"Munsiff" means the Judge of the lowest grade appointed under the Mysore Civil Courts Act, I of 1883,

1. See the Mysore Adaptation of Laws Order, 1953.
2. Substituted by Act III of 1917.

to exercise the jurisdiction of a Civil Court over the locality in which the Village Court is situate.]

"Deputy Commissioner" shall mean the Deputy Commissioner of the District in which the Village Court is situate. "Deputy Commissioner."

CHAPTER II.

ESTABLISHMENT AND CONSTITUTION OF VILLAGE COURTS.

3. The Government may, from time to time, by notification published in the official Gazette,— Establishment of Village Courts.

(1) establish a Village Court for any village or specified area ;

(2) group two or more villages and establish a Village Court for them ;

(3) constitute divisions in any village and establish a separate Village Court for each of such divisions.

A Village Court established under this Act shall be held before a Village Munsiff appointed, or a Bench of more than one Judge constituted, as hereinafter provided.

4. Village Munsiff shall be appointed by the Deputy Commissioner of the District subject to such rules as the Government may, from time to time, prescribe ; provided that no person not residing within the village shall be eligible for that office. Appointment of Village Munsiffs.

5. The Deputy Commissioner of the District may suspend or remove a Village Munsiff for incapacity, neglect of duty, misconduct, or other just and sufficient cause, and shall do so, on a requisition made by the District Judge for like cause appearing in the judicial proceedings of a Village Munsiff. Suspension or removal of Village Munsiff.

From every order suspending or removing a Village Munsiff, an appeal may be preferred within three months to the Revenue Commissioner if the order was passed by the Deputy Commissioner without a requisition from the District Judge, or to the High Court, if passed upon such requisition. The decision of the Revenue Commissioner or the High Court, as the case may be, on all such appeals shall be final. Appeals from the above orders to whom lie.

(Chapter II—Establishment and Constitution of Village Courts)

Provisions concerning Benches.

List of persons qualified to serve as members of a Bench.

6. (1) For every village in respect of which a Village Court is constituted, and subject to any rules which the Government may make on this behalf, the Deputy Commissioner shall prepare and maintain a list of persons residing in the village and qualified to sit as members of a Bench for the trial of suits brought under this Act. Such list shall also be hung up in the Court-house of the Village Munsiff.

Either party to a suit may claim a trial by Bench.

(2) In any suit which may be instituted before a Village Court under this Act, the plaintiff in his plaint or the defendant in his answer may claim that the suit shall, instead of being tried by the Village Munsiff, be tried by a Bench of three Judges, and nominate as a member of such Bench any person named in the list mentioned in clause (1).

(3) When the plaintiff has nominated such a person in his plaint, the defendant shall by the summons, be requested to nominate one also. When the defendant has demanded a Bench and nominated such a person, the plaintiff shall be required to nominate one also. When any person nominated to serve on a Bench declines or is unable to act, the party who nominated him shall be required to make a fresh nomination.

If a requisition under this clause has not been complied with within two clear days after it is made, the Village Munsiff shall himself select from the list a person to serve on the Bench on behalf of the party so making default :

Provided that the person nominated under this section shall not be the servant, dependant, relative or tenant of the party on whose behalf he is nominated, and shall not be personally interested in the result of the suit.

Member of Bench to be summoned by Village Munsiff.

(4) The Village Munsiff shall summon the two persons nominated or selected as aforesaid to sit together with himself for the trial of the suit.

Procedure.

(5) The Village Munsiff shall be the President of such Bench and shall regulate the procedure and issue all summonses, notices and the like in his own name, but the

decree shall run in the name of all the three members of the Bench. If the members of the Bench cannot agree, the opinion of the majority shall prevail.

Liability to serve on Bench.

(6) No person summoned under this section to serve on a Bench shall be bound to sit for more than three days in a month; provided that every such person shall be bound to attend the trial of any case which has been commenced before him until its completion.

Penalty for refusing or omitting to serve.

(7) Whoever, being duly summoned under this section to serve on a Bench, declines or omits to do so, without reasonable excuse, shall, on conviction before a Magistrate, be liable to a fine not exceeding Rs. 20.

Register of suits filed, and record of proceedings held, before Village Courts

7. The Village Munsiff shall keep a register of suits filed in the Village Court and shall write the proceedings of the Court, and may, if necessary, employ any person in the village to assist him in keeping the register and in writing the proceedings.

Seal.

8. Every Village Court shall use a seal with the name of the Court inscribed in Kannada characters and shall use it for stamping summonses, decrees and copies of documents issued by it.

Service of summonses, etc.

9. It shall be the duty of the village servant usually employed in carrying messages to serve all summonses, notices and orders issued under this Act and to act under the orders of the Village Munsiff in seizing, delivering and selling movable properties attached under this Act.

Power of Deputy Commissioner to appoint persons to perform duties mentioned in Sections 7 and 9.

10. The Deputy Commissioner of the District may, with the previous sanction of Government, appoint any other person to perform the duties prescribed by Sections 7 and 9, respectively.

(Chapter III—Jurisdiction, Res Judicata and Limitation)

CHAPTER III.

JURISDICTION, RES JUDICATA AND LIMITATION.

Cognizance of suits by Village Courts.

11. The following are the suits which shall be cognizable by Village Courts, namely :—

Claim based on contract for money due, or claims for movable property, or for the value of such property, when the debt or demand does not exceed in amount or value the sum of rupees [1][forty], whether on balance of account or otherwise :

Proviso.

Provided that no action shall be brought in any such Court—

(1) on a balance of partnership account unless the balance shall have been struck by the parties or their agents ;

(2) for a share or part of a share under an intestacy, or for a legacy or part of a legacy under a will ;

(3) for the rent for land unless such rent is due upon a written contract signed by the defendant ;

(4) by or against public officers in their official capacity ;

(5) by and against minors or persons of unsound mind.

Jurisdiction with consent.

12. With the written consent of both parties executed before the Court, a Village Court may hear and determine suits of the nature described in Section 11, the amount or value of which shall not exceed Rs. 200.

Exclusive jurisdiction of Village Courts in cases cognizable by such Courts.

13. No suit cognizable by the Village Court under this Act shall be entertained, heard or determined in any other Court having jurisdiction within the local limits of the jurisdiction of such Village Court.

Proviso.

Provided that all such cases pending in any Court at the time this Act comes into force shall be heard and determined by such Court ; and decrees passed in suits, which shall not have been satisfied prior to such time, shall be executed by such Courts.

1. Substituted by Act XI of 1928.

(Chapter III—Jurisdiction, Res Judicata and Limitation)

Court in which suits to be instituted.

14. Subject to the provisions contained in Section 15, every suit brought under this Act shall be instituted in the Village Court within the local limits of whose jurisdiction all the defendants at the time of the commencement of the suit reside or carry on business or personally work for gain.

Suits in which the Village Munsiff is personally interested.

15. No Village Munsiff shall try any suit to which he is a party, or in which he is personally interested, or shall adjudicate upon any proceeding connected with or arising out of such suit.

Res judicata

16. No Village Court shall try any suit brought on a cause of action which has been heard and determined by a Court of competent jurisdiction, in a former suit, between the same parties, or those under whom they claim.

Suit to include whole claim.

17. Every suit instituted in a Village Court shall include the whole of the claim which the plaintiff is entitled to make in respect of the cause of action, but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of such Court.

Relinquishment of part of claim.

If a plaintiff omits to sue in respect of, or intentionally relinquishes, any portion of his claim, he shall be precluded from bringing a fresh suit for, or in respect of, the portion so omitted or relinquished.

Incidental determination of matters not cognizable by Village Courts.

18. If in the decision of a suit cognizable by a Village Court under Sections 11 and 14 it becomes necessary to decide incidentally any matter in dispute between the parties to the suit concerning title to immovable property, or the legal character of either of them, or of those under whom they claim, or the existence of any contract or obligation, which, if it had been the immediate subject matter of the suit, would not be cognizable under this Act by a Village Court, it shall be competent to the Village Court to decide such question of title, legal character, contract or obligation as far as may be necessary for the determination of such suit, but such decision shall not be evidence of such title, legal character, contract or obligation in any other action, though between the same parties or their representatives.

(*Chapter IV—Of the Institution and Frame of Suits, Recognized Agents, the Issue and Service of Summons on Parties, Adjournment and Consequences of Non-appearance*)

Limitation.

19. The provisions of the [1]Mysore Limitation Act shall apply to suits and applications under this Act :

Proviso.

Provided that no suit or application shall be entertained by a Village Court after the expiration of three years from the time when the right to sue or make the application first accrued.

Transfer of suits.

20. The Munsiff may, on the application of any of the parties, withdraw, for just and sufficient cause, any suit from a Village Court and try the suit himself, as if it had been instituted in his Court, or transfer it for trial to any other Village Court within the local limits of his jurisdiction :

Provided that any party applying to have a suit withdrawn from a Village Court and tried by the Munsiff shall, before any such order of transfer is made, pay the amount of the fees payable under the Mysore Court Fees Act, 1900, in respect thereof.

CHAPTER IV.

OF THE INSTITUTION AND FRAME OF SUITS, RECOGNIZED AGENTS, THE ISSUE AND SERVICE OF SUMMONS ON PARTIES, ADJOURNMENT AND CONSEQUENCES OF NON-APPEARANCE.

Suit to be commenced by plaint.

21. Every suit under this Act shall be instituted by presenting a plaint to the Village Munsiff together with as many copies thereof as there are defendants. One copy shall be delivered or affixed as hereinafter provided together with the copy of the summons.

Particulars to be contained in plaint.

22. The plaint shall be written in Kannada and signed by the plaintiff or in his absence by an agent duly authorised by him, and it shall contain the following particulars :—

(*a*) the name, description and residence of the plaintiff and defendant ;

(*b*) a concise statement of the cause of action and when it arose ;

(*c*) the relief prayed for and the total amount or value of the claim.

1. See the Part B States (Laws) Act, 1951 (Central Act III of 1951.)

(*Chapter IV—Of the Institution and Frame of Suits, Recognized Agents, the Issue and Service of Summons on Parties, Adjournment and Consequences of Non-appearance*)

Appearance in person or by agent.

23. No agent except a relative or servant empowered by a written instrument shall be allowed to appear on behalf of any party to a suit in a Village Court: provided that in all cases, a Village Court shall be competent to order the personal appearance of any party.

Registry of plaint and issue of summons.

24. When the plaint has been duly presented, the Village Munsiff shall cause it to be registered and shall, by a summons in writing, require the defendant to appear and answer the claim on a specified day.

The summons shall be accompanied by a copy of the plaint and shall require the defendant to bring his witnesses, if any, on the date fixed for hearing, the plaintiff being likewise directed to appear on that date with his witnesses.

The summons shall be served on the defendant personally and a copy thereof delivered to him.

Mode of service when defendant evades service.

25. If the Village Munsiff is satisfied that the defendant is evading service of the summons, the Village Munsiff may order that it be served upon, and a copy thereof delivered to, an adult male member of the family of the defendant residing with him, or that a copy thereof be affixed upon some conspicuous part of the house in which he generally resides and another copy to the Court-house of the Village Munsiff.

Mode of service when defendant is beyond local jurisdiction of Court.

26. Whenever it may be necessary to serve the summons upon a defendant beyond the local jurisdiction of the Village Court, it shall be forwarded to the Munsiff, who shall cause it to be served as if it had been a summons issued by himself and shall then return it to the Village Court together with a report of such service. Such report shall be *prima facie* evidence of the facts stated therein.

Procedure if defendant does not appear.

27. If a defendant does not appear in person or by agent on the day fixed, and it is proved that the summons was duly served at least two clear days before the date of hearing, the Village Court may proceed *ex-parte*.

If it is not proved that the summons was duly served, the Village Munsiff shall issue a fresh summons.

(Chapter IV—Of the Institution and Frame of Suits, Recognized Agents, the Issue and Service of Summons on Parties, Adjournment and Consequences of Non-appearance.

Process to be served at expense of party issuing.

28. Every summons served under this Act otherwise than by the village servant shall be served at the expense of the party on whose behalf it is issued and the amount of fee leviable for such service shall be fixed by Government from time to time and shall be levied by the Village Munsiff in such manner and subject to such rules as may be prescribed in that behalf by Government.

Procedure where plaintiff does not appear and defendant does not admit claim or where summons is not served through plaintiff's default.

29. If, on the day fixed for the defendant to appear,—

(1) neither party appears, or

(2) the plaintiff does not appear and the defendant appears and does not admit the claim, or

(3) the summons has not been served owing to the plaintiff's default and the defendant does not appear, the suit shall be dismissed unless the Village Court, for good and sufficient cause, otherwise directs.

Procedure where plaintiff does not appear and defendant admits claim.

30. If the plaintiff does not appear but the defendant appears and admits the claim wholly or in part, the Village Court shall pass judgment against the defendant in accordance with such admission, and where part only of the claim is admitted shall dismiss the suit so far as it relates to the remainder.

Setting aside order under Section 29 on cause shown.

31. (1) Whenever a suit is dismissed under clause (1) or clause (3) of Section 29, the plaintiff may bring a fresh suit, and if within the time allowed by the law of limitation the plaintiff satisfies the Village Court that he was prevented by any sufficient cause from appearing, the Court shall set aside the dismissal and shall appoint a day for proceeding with the suit.

Setting aside order under Sections 29 (2) and 30.

(2) When a suit is dismissed under sub-section (2) of Section 29 or partially dismissed under Section 30, the plaintiff shall be precluded from bringing a fresh suit in respect of the same cause of action, but he may within the time allowed by the law of limitation apply for an order to set aside the dismissal and if he satisfies the Court that he was prevented from any sufficient cause

from appearing, the Court shall make an order setting aside the dismissal and shall appoint a day for proceeding with the suit.

Setting aside *ex-parte* decree against defendant.

32. Any defendant against whom a decree has been passed *ex-parte* may, within the time allowed by the law of limitation, apply to the Village Court to set it aside; and if satisfied that the summons or notice was not duly served or that the defendant was prevented by any sufficient cause from appearing, the Court shall set aside the decree and shall appoint a day for proceeding with the suit.

No decree to be set aside without notice to opposite party.

33. No dismissal or decree shall be set aside on any application under Section 31 or Section 32, unless notice has been served on the opposite party.

CHAPTER V.

OF THE HEARING, WITHDRAWAL OR COMPROMISE OF SUITS, AND OF THE SUMMONING AND EXAMINATION OF WITNESSES.

Procedure on appearance of both parties.

34. When the defendant appears, the Court shall ascertain from him whether he admits the claim made in the plaint. If he admits the claim, or if the suit is compromised, such admission or compromise shall be recorded in writing and signed by the parties, and the Court shall pass a decree in accordance therewith. If the defendant does not admit the claim, he shall be required to state his objections either orally or in writing, and the Court may, if it thinks fit, adjourn the case to enable him to file a written statement.

Withdrawal of suit.

35. If the plaintiff wishes to withdraw the suit, he shall signify the same in writing to the Court which shall strike the suit off the file and no fresh suit shall be brought on the same cause of action.

When suit may be settled by oath.

36. If either party is willing to let the suit be settled by the oath of the other, and such other party assents and takes the oath, the Court shall give judgment according to such oath.

(*Chapter V—Of the Hearing, Withdrawal or Compromise of Suits, and of the Summoning and Examination of Witnesses*)

Set-off.

37. The defendant may set-off any amount legally due to him by the plaintiff for which he could bring a suit in a Village Court. If such set-off is established, the decree shall be for any sum which finally appears to be due to either party.

Witnesses not present to be summoned.

38. When the defendant's statement has been made, the Court shall proceed to examine the truth of the claim, and shall summon the witnesses cited by either party who are not present.

Summons to witness how served.

39. Any witness residing within the jurisdiction of the Village Court may be summoned verbally or in writing. Any witness residing within five miles beyond the Court's jurisdiction may be summoned in writing, and such summons shall be served through the Village Munsiff within whose jurisdiction he resides, or if for such place there is no Village Court, through the patel of the village in which the witness resides. If any witness resides more than five miles beyond the jurisdiction, the Court may call on the parties to frame written interrogatories and shall forward such interrogatories with a letter to the Village Munsiff or if there is no Village Court for such place, to the Amildar or Deputy Amildar within whose jurisdiction the witness resides, and such Village Munsiff or Amildar or Deputy Amildar shall forthwith summon and examine the witness upon the interrogatories, and shall return his answers to the Court in which the suit is pending.

Interrogatories.

Summons to appear and give evidence or produce document.

40. A summons may direct the party summoned either to appear and give evidence or to produce or cause the production of a document.

Liability of witnesses to attend and give evidence or produce document.

41. Witnesses summoned by a Village Court to give evidence or to produce a document shall, except for reasonable cause, be bound so to attend and give evidence and produce or cause the production of the document summoned.

(Chapter VI—Of the Decree and its Execution)

Exemption of certain persons from personal appearance.

42. Women who, according to the customs and manners of the country, ought not to be compelled to appear in public, persons exempted from personal appearance in Court, and any person who, by reason of sickness or bodily infirmity, cannot attend without serious inconvenience, shall not be summoned; but when the evidence of any such person is necessary, the Village Court shall examine such person at his or her residence.

Examination of Witnesses.

43. Witnesses shall be examined in open Court on oath or affirmation, but it shall not be necessary for a Village Court to take down depositions of witnesses in writing.

Adjournment in view to amicable settlement or for other cause.

44. If it appears likely that the parties will settle the matter amicably, or for any other sufficient cause, the Village Court may adjourn the hearing to a day to be fixed in the presence of the parties or in cases in which the defendant does not appear, in the presence of the plaintiff. If, on such day, the parties or any of them fail to appear, the Village Court may proceed to dispose of the suit in one of the modes prescribed in that behalf by Sections 29 and 30, or make such other orders as it thinks fit.

CHAPTER VI.

OF THE DECREE AND ITS EXECUTION.

On conclusion of hearing, Court to pass decree.

45. When the parties or their agents have been heard, and the evidence on both sides considered, the Village Court shall pass such decree as may seem just, equitable and according to good conscience.

Contents of decree.

46. The decree shall contain the number of the suit, the names of the parties, the particulars of the claim, the names of the witnesses examined, the titles of the exhibits read, the decision thereon, and the reasons for such decision. It shall specify the sum of money adjudged, the movable property to be delivered, the sum to be paid in default of delivery, and the amount of costs to be paid and by what parties and in what proportions such costs shall be paid.

The decree shall be dated on the day on which it is passed, and signed by the Village Munsiff. When the suit has been heard by a Bench, the decree shall be signed

by the members of such Bench concurring therewith. Each party shall be entitled to receive a copy of the decree on application.

Decree may award interest or order payment by instalments.

47. In suits for money, the Village Court may decree interest on the sum decreed not exceeding 12 per cent per annum from date of suit till date of payment.

When a Village Court decrees the payment of a sum of money, it may direct that it be paid by instalments, with or without interest at the above rate.

Court by which decree may be executed.

48. The decree shall be executed by the Village Court which passed it or by a Village Court or Munsiff to whom it is sent for execution under the provisions hereinafter contained.

Decree for specific movable how executed.

49. If the decree is for any specific movable, it may be enforced by the seizure of the property, and its delivery to the decree-holder. If the seizure of the property is not practicable, the decree shall be executed by enforcing payment of the sum decreed as an alternative.

Payment of money under a decree or other adjustment to be made or recorded in the presence of the Village Munsiff.

50. All money payable under a decree passed by a Village Court shall be paid to the decree-holder or his agent specially authorized in writing, in the presence of the Village Munsiff whose duty it is to execute the decree; but if the decree is otherwise adjusted to the satisfaction of the decree-holder, the nature of such adjustment shall be recorded in writing, and signed by him or his agent in the presence of, and attested by, such Village Munsiff.

Such payment or adjustment shall be endorsed by the Village Munsiff on the decree, and recorded in the register of suits mentioned in Section 7.

No payment under a decree, and no adjustment of a decree in whole or in part, shall be recognised, unless it has been made or recorded in the manner prescribed by this section or in the Court of the Munsiff.

Judgment-debtor not to be arrested nor immovable property attached.

51. Except where the decree is executed by a Munsiff, no judgment-debtor shall be arrested and no immovable property attached in execution of a decree of a Village Court.

(Chapter VI—Of the Decree and its Execution)

Attachment of movable property.

52. On the application of the decree-holder, the Village Court shall attach any movable property within its jurisdiction belonging to the judgment-debtor pointed out by the decree-holder to the value of the sum payable under the decree: provided that the following properties shall not be liable to such attachment, *viz.* :—

(*a*) the necessary wearing apparel, cooking vessels, beds, and bedding of the judgment-debtor, his wife and children, and such personal ornaments as, in accordance with religious usage, cannot be parted with by any woman;

(*b*) tools of artizans and, where the judgment-debtor is an agriculturist, his implements of husbandry and such cattle and seed-grain as may, in the opinion of the Court, be necessary to enable him to earn his livelihood as such;

(*c*) books of account;

(*d*) stipends and gratuities allowed to pensioners of the Government or payable out of any service family pension fund notified in the official Gazette by Government in this behalf, and political pensions;

(*e*) the salary due to a public officer or to any servant of a Railway Company or local authority;

(*f*) the pay and allowances of persons to whom the Indian Army Act, 1911, applies and of those belonging to the Mysore Military Forces;

(*g*) the wages of labourers and domestic servants whether payable in money or in kind;

(*h*) the arms, horse, clothes, equipments, regimental accoutrements and necessaries of the members of the Mysore Military Forces;

(*i*) where the decree relates to a debt due or contracted by an officer who has insured his life under the rules in force relating to the Mysore State Life Insurance, any bonus payable or paid thereunder to such officer or in the event of his death to his nominee or other person or persons entitled to such bonus under the said rules;

(*j*) any amount payable by the Military Department to the members of the Mysore Military Forces out of a retiring fund.

Explanation I.—The expression "Mysore Military Forces" occurring in this section shall have the meaning given to it in the Code of Civil Procedure, 1911.

Explanation II.—The particulars mentioned in clauses (*d*), (*e*), (*f*), (*g*) and (*j*) are exempt from attachment or sale whether before or after they are actually payable.

Attachment when property is in possession of the judgment-debtor.

53. If the property is in the possession of the judgment-debtor, it shall be attached by actual seizure and the Village Munsiff shall provide for its safe custody. It may be left in the custody of the judgment-debtor upon sufficient security being given in writing for its production when required. On default, the decree may be executed against the surety to the value of the property not produced.

Attachment when such property is not in possession of the judgment debtor.

54. If the property is not in the possession of the judgment-debtor, the attachment shall be made by a written order prohibiting the person in possession of the property from giving it over to the judgment-debtor.

Debts how attached.

55. Debts and moneys due to the judgment-debtor shall be attached by a written order prohibiting the judgment-debtor from recovering the debt or receiving the sum of money and the debtor from making payment thereof, until the further order of the Village Court. Nothing in this section shall be held to authorize a Village Court to attach or sell a debt charged on immovable property.

Private alienation of property after attachment to be void.

56. When an attachment has been made by actual seizure, or by a written order, any private alienation of the property attached whether by sale, gift, pledge or otherwise, and any payment of the debt to the judgment-debtor, during the continuance of the attachment, shall be void as against all claims enforceable under the attachment.

Investigation of claims to attached property.

57. If any claim is preferred to property attached in execution of a decree, the Village Court shall investigate the claim, and if it appears that the judgment-debtor has no saleable interest therein, such property shall be released from attachment.

Sale of attached property.

58. As soon as possible after attachment, the Village Court shall fix a day not less than fifteen days from the date of attachment for the sale of the property attached, and shall cause a written proclamation of the intended

sale to be fixed outside the Court, and such sale shall be further proclaimed by beat of drum previous thereto:

Provided that (1) with the consent in writing of the judgment-debtor, or (2) when the property seized is subject to speedy and natural decay, or (3) when the expense of keeping it in custody may exceed its value, the Court may, after giving due notice by beat of drum sell the attached property at any time within fifteen days from the date of attachment. In such case, the Court shall hold the sale proceeds subject to the provisions hereinafter made for payment of moneys attached in execution of decrees. Proviso.

59. On the day fixed for the sale, the property shall be put up for sale by public auction in the presence of the Village Munsiff and sold to the highest bidder. The price shall be paid without delay and in default the property shall again be put to sale. Procedure in sale.

On payment of the purchase money, the Court shall grant a receipt for the same, and the sale shall become absolute.

Any loss on resale shall, at the instance of either the decree-holder or judgment-debtor, be recoverable from the defaulter as if a decree had been passed against him for the same.

60. Any sale advertised under this Act may, at the discretion of the Court, be adjourned to a specified day, public notice thereof being given in the manner prescribed by Section 58. Powers to adjourn sale.

61. No Village Munsiff or other officer having any duty to perform in connection with any sale under this Act shall, either directly or indirectly, bid for or acquire any property sold at such sale. Village Munsiff and other officers not to bid for or buy property sold.

62. Every sale of property under this Act shall be stopped if, before the lot is knocked down, the amount due under the decree and the cost attending the sale are tendered to the Village Munsiff. Stoppage of sale on tender of debt and costs.

63. Out of the moneys realized in execution, the cost of execution shall first be defrayed and then the amount due to the decree-holder. Any surplus which may remain shall be paid to the judgment-debtor. Division of proceeds of sale.

Property actually seized to be delivered to purchaser.

64. When the property sold is one of which actual seizure has been made the property shall be delivered to the purchaser.

Delivery of property to purchaser in other cases.

65. When the property sold is in the possession of any person other than the judgment-debtor, or is debt due by any person to the judgment-debtor, delivery thereof to the purchaser shall be made by a written notice to such person, prohibiting him from delivering possession of the property or paying the debt to any person except the purchaser, and whatever right the judgment-debtor had in such property or debt at the time of attachment shall vest in the purchaser.

Transfer of decree for execution to Munsiff.

66. On the application of the decree-holder, a Village Court which passed a decree may, if the decree cannot be fully executed by itself, transfer it for execution to the Munsiff who may execute the same as if it were a decree passed by himself, or may transfer for execution to the Court of any other village in which the defendant is represented to have movable property. Such Court shall proceed as if the decree was passed by itself.

Munsiff may withdraw execution of any decree.

67. It shall be competent to the Munsiff to withdraw for just and sufficient cause the execution of any decree from any Village Court and to execute it himself, as if it were a decree passed by himself.

CHAPTER VII.

MISCELLANEOUS.

If on death of party to suit application is made, legal representative of deceased may be entered on record.

68. If a plaintiff or a defendant dies before decree is passed in the suit, the name of his legal representative may be entered in his place on the record on the application of the opposite party or of such legal representative, but the legal representative of a deceased defendant shall not be answerable for any decree that may be passed beyond the value of the assets derived from him and not duly accounted for.

If no application made, suit to be dismissed.

69. If no such application is made within sixty days from the date of the death of the plaintiff or defendant, the suit shall be dismissed and no fresh suit shall be allowed to be brought on the same cause of action.

If more than one plaintiff or defendant, suit to proceed at instance of or against survivor.

70. If there be more plaintiffs or defendants than one, and any of them dies and his representative is not joined as aforesaid, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs or against the surviving defendant or defendants.

If decree-holder dies his legal representative may be substituted.

71. If a decree-holder dies before the decree has been fully executed, his legal representative may apply to the Village Court to substitute his name as the decree-holder in the place of the deceased, and if the Court is satisfied after giving notice to the judgment-debtor, that the applicant is the legal representative of the deceased, it shall substitute his name on the record as the decree-holder.

If judgment-debtor dies, decree may be executed against his legal representative.

72. If a judgment-debtor dies before the decree has been fully executed, it may be executed on the application of the decree-holder against the legal representative of the judgment-debtor to the extent of the assets derived from him and not duly accounted for.

Revision by Munsiffs of proceedings of Village Court.

73. The Munsiff may, on a petition being presented within sixty days from the date of any decree or order of a Village Court by any party deeming himself aggrieved by such decree or order, set aside such decree or order, on the ground—

of corruption, gross partiality, or misconduct of the Village Court; or

of its having exercised a jurisdiction not vested in it by law, or otherwise;

acted illegally or with material irregularity; or

that the decree or order is clearly unjust or contrary to law;

and may pass such other decree or order as he thinks fit:

Provided that no decree or order of a Village Court shall be set aside without notice to the opposite party.

Pending disposal of any such petition, the Munsiff may stay execution of the decree or order.

A petition under this section may be entertained after sixty days by the Munsiff if he is satisfied with the cause shown for the delay.

Except as provided in this section, every decree and order of a Village Court shall be final.

(*Chapter VIII—Power to make rules*)

Munsiff may, and in certain cases shall, report to District Judge.

74. Whenever under section 73 the Munsiff sets aside a decree or order, he may report the case to the District Judge, and shall report every case in which he sets aside a decree or order on the ground of corruption, gross partiality or misconduct.

Power of High Court to prescribe forms and of District Judge, Deputy Commissioner and Munsiff to inspect records.

75. The High Court may, from time to time, prescribe forms for use in Village Courts and the returns which they shall be bound to submit.

[1][**75A.** (1) The District Judge or the Deputy Commissioner or the Munsiff may at any time call for and inspect the registers and records of Village Courts.]

[2][(2) It shall be competent to the Deputy Commissioner to authorise generally or specially any Revenue Officer not below the rank of an Amildar to inspect the registers and records of Village Courts in his district.]

[3][**76.** The Court-fee leviable in the case of suits filed in Village Courts will be determined from time to time by the Government but in no case it shall exceed half the fee chargeable under the Court-fees Act.]

[2][CHAPTER VIII.

POWER TO MAKE RULES.

Power to make rules.

77. (1) Government may make rules to carry out the purposes and objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for and regulate—

(*a*) the appointment of Village Munsiffs and members of a Bench under sections 4 and 6;

(*b*) the grant of copies of decrees and other records;

(*c*) the levy and disposal of fees for the service of process, execution of decrees, and grant of copies.]

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1. The second sentence of section 75 formed as sub-section (1) of a new section 75 A by Act IX of 1920.
2. Added by Act IX of 1920.
3. Substituted by Act VI of 1923.

MYSORE ACT No. VI OF 1917.

THE DESTRUCTIVE INSECTS AND PESTS ACT, 1917.

(AS AMENDED BY ACT V OF 1944.)

(Received the assent of His Highness the Maharaja on the 9th day of October 1917).

An Act to prevent the spreading of Plant Disease.

WHEREAS it is expedient to make provision for preventing the spreading of plant disease [1][or noxious weeds], His Highness the Maharaja is pleased to enact as follows :—

Short title, extent and commencement.

1. This Act may be called the Destructive Insects and Pests Act, 1917.

It shall extend to the [2][whole of the State of Mysore except Bellary District] and it shall come into force at once.

Definition.

2. In this Act, unless there is anything repugnant in the subject or context—

(*a*) " crops " includes all agricultural or horticultural crops, trees or bushes or herbs, the fruit or any other part of which is used for food of man or beast or for any purpose in connection with art or manufactures ;

(*b*) " notified area " means any specified area or locality declared by Government to be infected with a plant disease under section 3 ;

(*c*) " plant disease " includes any disease affecting trees, plants, vegetables and crops caused by or consisting of the presence of any insect or fungus and any other disease affecting trees, plants, vegetables or crops which the Government may, from time to time, by a notification in the official Gazette, declare to be a plant disease within the meaning of the Act and whether or not caused by or consisting of the presence of any insect or fungus ;

1. Added by Act V of 1944.
2. *See* the Mysore Adaptation of Laws Order, 1953.

Noxious weed.

[1][(*d*) " noxious weed " means such weed, plant or root-parasite as the Government or an authority empowered may, by notification under section IV,[2] declare to be a " noxious weed "].

Power to declare infected area and crop.

3. Government may, by notification in the official Gazette, declare any specified area or locality within [3][the State of Mysore except Bellary District] to be a place infected with a plant disease in respect of any specified crop during a period to be fixed in such notification.

Power of Government to make rules.

4. Government may, by notification in the official Gazette, make rules or orders for all or any of the following :—

(*a*) for the seizure, inspection, disinfection or destruction of any crops in respect of which a notification has been issued under section 3 or of any article which may have been in contact or proximity thereto, and for regulating the powers and duties of the officers whom it may appoint in this behalf ;

(*b*) for prescribing or regulating the treatment, removal, uprooting, destruction or disposal of crops within a notified area and for providing for payment of compensation in proper cases ;

(*c*) for prescribing and regulating the cleansing and disinfecting of infected places or areas or parts thereof ;

(*d*) for prescribing the period within which it shall not be lawful to plant or re-plant with any crop whatsoever or with any particular kind of crop the whole or any portion of a notified area ;

(*e*) for prohibiting or regulating the movement temporarily of crops, earth, soil, manure or other things into or out of a notified area ; and

(*f*) generally for the preventing in any manner of the spread within the State of any plant disease.

Power to direct measures to eradicate noxious weeds.

[4][**5.** Whenever it appears to the Government or to such authority as may be empowered by it in this behalf, that in any specified area any weed is injurious to crops or

1. Added by Act V of 1944.
2. ' Sic : " should be " section 5 " . The reference has not been properly given by inadvertence, in Act V of 1944.
3. See the Mysore Adaptation of Laws Order, 1953.
4. Inserted by Act V of 1944.

plants or trees or may render land unfit for cultivation, it may, by notification in the official Gazette—

(1) declare that such weed is a noxious weed and specify the area within which such a declaration shall be in force;

(2) direct the carrying of any measure including the inspection, seizure, removal, uprooting, destruction or disposal of such a noxious weed as the Government or the authority empowered, as the case may be, may consider necessary in order to eradicate the weed or prevent its spread or reappearance.]

Penalty.

[1]6. For every breach of a rule or order made under this Act the offender on conviction by a Magistrate shall be liable to a fine not exceeding rupees five hundred:

Provided it shall be within the discretion of the Magistrate to discharge the offender with a warning in the case of a first offence.

No suit, prosecution, etc., against a person acting in good faith under this Act.

[1]7. No suit, prosecution or other legal proceeding shall lie against any person for anything, in good faith, done or intended to be done under this Act.

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1. Sections 5 and 6 renumbered as sections 6 and 7, by Act V of 1944.

MYSORE ACT No. III OF 1918.

THE MYSORE REGISTRATION OF BIRTHS AND DEATHS ACT, 1918.

(Received the assent of His Highness the Maharaja on the 6th day of March 1918.)

An Act to make provision for the Registration of Births and Deaths in Rural Tracts.

Preamble.

WHEREAS it is expedient to make provision for the Registration of births and deaths in rural tracts; His Highness the Maharaja is pleased to enact as follows:—

Title.

1. This Act may be called the Mysore Registration of Births and Deaths Act, 1918.

Extension and withdrawal of Act.

2. The Government may, by notification, extend this Act, or any portion thereof, to any local area beyond the limits of the Municipalities constituted under the Mysore Municipal Act, 1906, and may also by notification exclude any such local area from the operation of the Act or any portion thereof.

Interpretation clause.

3. In this Act, unless there is something repugnant in the subject or context,—

"Village."

"Village" means any local area which for purposes of revenue administration is now recognised as a village, or which may hereafter be declared by the Government to be a village, and in which local area this Act or any portion thereof is in force;

"Registrar."

"Registrar" means a person appointed registrar of births and deaths under section 5 of this Act.

Deputy Commissioner to proclaim that registration will be compulsory.

4. On the publication of a notification under section 2 extending this Act or any portion thereof to any local area, the Deputy Commissioner shall cause to be proclaimed in Kannada by notices posted at the village chavadi or other conspicuous place and by beat of drum in every village within the area so notified and by publication in the official Gazette the date from which registration of births and deaths will be compulsory in the said area.

Appointment of Registrars.

5. (1) On the publication of such notification, the Deputy Commissioner shall appoint a person either by name or by virtue of any office he may hold to be registrar of births and deaths for each village, or may if he sees fit divide any village into wards and appoint a person either by name or by virtue of any office he may hold to be registrar of births and deaths for each ward.

Registrars to keep registers in the prescribed form.

(2) Every registrar so appointed shall keep in the prescribed form a register of births and deaths for his village or ward, as the case may be.

Registrars to live in their villages or wards.

6. Every such registrar shall, unless otherwise expressly authorised by the Deputy Commissioner in writing, reside within the village or ward of which he is the registrar, and shall cause his name, with the addition of registrar of births and deaths for the village or ward for which he is so appointed, written in Kannada to be placed in some conspicuous place on or near the outer door of his office.

Deputy Commissioner to have registers printed and supplied.

7. (1) The Deputy Commissioner shall cause to be printed and supplied a sufficient number of register books for making entries of births and deaths according to such forms and instructions as may, from time to time, be prescribed by the Government.

Copy of such forms to be posted in the office of the Registrar.

(2) A copy of such forms in Kannada shall be posted in some conspicuous place on or near the outer door of the office of every registrar.

Information of birth to be given within two weeks.

8. The father of every child or, in case of the death, illness, absence or inability of the father, the midwife assisting at the birth, and in her default every adult male member of the family resident in the house in which the child was born and any person having charge of the child, or in default of the above the mother, shall, within two weeks next after the day of such birth, give or cause to be given, either, orally or in writing information to the registrar, according to the best of his knowledge and belief, of the several particulars required to be entered in the forms prescribed under section 7 :

Proviso.

Provided that a person not required to give information in the first instance but only in default of some other person shall not be bound to give information under this Act if he had reasonable cause to suppose that the

information has been or would be duly given by such other person:

Provided also that, in the case of an illegitimate child, it shall in the first instance be the duty of the mother of such child to give information under this Act, and no person shall, a father of such child, be required to give information under this Act concerning the birth of such child, and the registrar shall not enter in the register the name of any person as father of such child, unless at the joint request of the mother and of the person acknowledging himself to be the father of such child, and unless such person shall sign the register together with the mother.

Information to be given respecting new-born child found exposed.

9. In case any new-born child is found exposed, it shall be the duty of any person finding such child and of any person in whose charge such child may be placed to give, to the best of his knowledge and belief, to the registrar within seven days after the finding of such child, such information of the particulars required to be registered concerning the birth of such child as the informant possesses.

Information of death to be given within seven days.

10. The nearest adult male relative present at the death, or in attendance during the last illness, of any person dying in a village, or, in case of the default of such relative, every adult male person present at the death, or, in case of their default the occupier of the house, or in his default every adult male person living in the house in which such death has happened, or, in case of the default of such inmate, the person undertaking the disposal of the corpse shall, within seven days from the date of death, give or cause to be given, either orally or in writing, information to the registrar, according to the best of his knowledge and belief of the several particulars required to be entered in the forms prescribed under section 7:

Provided that a person not required to give information in the first instance, but only in default of some other person, shall not be bound to give information under this Act if he had reasonable cause to suppose that the information had been or would be duly given by such other person.

Head of the village bound to give information regarding other deaths.

11. In case any person is found dead in a village under circumstance not covered by section 10, it shall be the duty of the head of the village to give forthwith, to the best of his knowledge and belief, to the registrar, such information of the particulars required to be registered concerning such death as the informant possesses.

12. Notwithstanding anything contained in sections 8 and 10 of this Act,—

In case of births and deaths in hospital, Medical Officer in charge to send notice to the registrar.

(1) in case of child being born or of a person dying in any hospital, it shall be the duty of the medical officer in charge forthwith to send to the registrar a notice in writing of the occurrence of such birth or death containing the several particulars required to be entered in the forms prescribed under section 7 ;

In case of births and deaths in choultries, etc., keeper or person in charge to give the information required.

(2) in case of a child being born or of a person dying in any choultry, chattram, hotel, boarding-house, lodging-house, tavern, arrack or toddy shop or place of public resort, it shall be the duty of the owner, keeper or person in charge thereof to give the information required under sections 8 and 10 in the manner specified therein within forty-eight hours of the birth or death as the case may be.

A person giving oral information to write his name in the register.

13. Every person who has orally given to a registrar any information required under this Act shall write in the register his name, description and place of abode, and, if he cannot write, shall put his mark in the register to his name, description and place of abode, these particulars being in such case entered by the registrar.

When registrar to give extract free of charge.

14. The registrar shall, as soon as the registration of the birth of a child has been completed, give, on application, free of all charge, to the person who gives information of the birth an extract under his hand from the register relating to such birth.

Registrar to register information without fee or reward and inform himself of every birth and death.

15. Every registrar shall without fee or reward register all information furnished to him under sections 8 to 13, and it shall also be his duty to inform himself carefully of every birth and of every death which takes place in his village or ward, and he shall ascertain and register, as soon as conveniently may be after the event, the particulars required to be registered according to the forms prescribed under section 7 touching every such birth and

death, as the case may be, which has not already been registered.

Entry of name of child.

16. When the birth of any child has been registered without name, the parent or guardian of such child may, within twelve months next after the registration of birth, require the registrar to enter in the register the name of such child; and the registrar shall thereupon enter the name, and shall initial and date the entry.

Search of births and deaths registers.

17. Subject to any rules which the Government may make under section 20, any person may at all reasonable times, on payment of a fee of four annas for each visit search any register of births and deaths, and may on payment of a further fee of four annas obtain an extract from such register relating to any birth or death registered therein.

All extracts given under this section shall be certified as provided in section 26 of the Indian Evidence Act, 1872, and may be produced in proof of the entries of which they purport to be copies.

Penalty for omission to give information, etc.

18. Any person who—

(1) fails without reasonable cause to give any information which it is his duty to give under sections 8, 9, 10, 11 and 12 of this Act; or

(2) gives, or causes to be given, for the purpose of being inserted in any register of births or deaths, any information which is false and which he knows or believes to be false touching any of the particulars required to be known and registered; or

(3) refuses to write his name, description and place of abode or to put his mark in the register if required by section 13;

shall, on conviction before a Magistrate, be liable to a fine not exceeding ten rupees.

Prosecution not to be instituted except under the orderof an Amildar or an officer superior to him.

19. (1) No prosecution in respect of any offence punishable under this Act shall be instituted except under the order of the Amildar having jurisdiction over the village in which the offence was committed or of an officer to whom the Amildar is subordinate.

The Deputy Commissioner or any officer generally or especially empowered by him in this behalf may stay such prosecution.

(2) In prosecutions for offences under the provisions of this Act, the accused persons may appear by an agent and may of right be defended by an agent: Accused persons may appear and be defended by agents.

Provided that the Magistrate may at any stage of the proceedings, for reasons to be recorded in writing, direct the personal attendance of the accused.

20. The Government may, after previous publication, make rules — Power of Government to frame forms and make rules.

(1) prescribing the forms of registers of births and deaths required to be kept under this Act;
(2) prescribing returns and extracts to be submitted from time to time by the Registrar;
(3) for the inspection and examination of the registers maintained under section 5;
(4) for the conduct of the duties of the registrar during his absence on other duty or on account of illness or other cause;
(5) for the custody, production and transfer of the registers and other records kept by registrars;
(6) for the correction of clerical errors which may be discovered in the registers of births or registers of deaths;
(7) generally to carry out the provisions of the Act.

THE MYSORE EASEMENTS ACT, 1919.

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MYSORE ACT No. IV OF 1919.

THE MYSORE EASEMENTS ACT, 1919.

(*Received the assent of His Highness the Maharaja on the 7th day of May 1919.*)

An Act to define and amend the Law relating to Easements and Licenses.

WHEREAS it is expedient to define and amend the law relating to Easements and Licenses: His Highness the Maharaja is pleased to enact as follows :— Preamble.

PRELIMINARY.

1. (1) This Act may be called the Mysore Easements Act ; Short title.

(2) It extends to the [1][whole of the State of Mysore except Bellary District] ; and Extent.

(3) It shall come into force on the first day of July 1919. Commencement.

2. Nothing herein contained shall be deemed to affect any law not hereby expressly repealed, or to derogate from— Savings.

(*a*) any right of the Government to regulate the collection, retention and distribution of the water of rivers and streams flowing in natural channels, and of natural lakes and ponds, or of the water flowing, collected, retained or distributed in or by any channel or other work constructed at the public expense for irrigation ;

(*b*) any customary or other right (not being a license) in or over immovable property which the Government, the public or any person may possess irrespective of other immovable property ; or

(*c*) any right acquired, or arising out of a relation created, before this Act comes into force.

1. See the Mysore Adaptation of Laws Order, 1953.

Repeal of Act IV of 1911, sections 26 and 27.

3. Sections 26 and 27 of the Mysore Limitation Act, 1911, and the definition of " easement " contained in that Act, are repealed. All references in any Act or Regulation to the said sections or to sections 26 and 27 of Act No. XV of 1877, shall be read as made to sections 15 and 16 of this Act.

CHAPTER I.

OF EASEMENTS GENERALLY.

" Easement " defined.

4. An easement is a right which the owner or occupier of certain land possesses, as such, for the beneficial enjoyment of that land, to do and continue to do something, or to prevent and continue to prevent something being done, in or upon, or in respect of, certain other land not his own.

Dominant and servient heritages and owners.

The land for the beneficial enjoyment of which the right exists is called the dominant heritage, and the owner or occupier thereof, the dominant owner; the land on which the liability is imposed is called the servient heritage, and the owner or occupier thereof, the servient owner.

Explanation.—In the first and second clauses of this section, the expression " land " includes also things permanently attached to the earth; the expression " beneficial enjoyment " includes also possible convenience, remote advantage, and even a mere amenity; and the expression " to do something " includes removal and appropriation by the dominant owner for the beneficial enjoyment of the dominant heritage, of any part of the soil of the servient heritage or anything growing or subsisting thereon.

Illustrations.

(*a*) A, as the owner of a certain house, has a right of way thither over his neighbour B's land for purposes connected with the beneficial enjoyment of the house. This is an easement.

(*b*) A, as the owner of a certain house, has the right to go on his neighbour B's land, and to take water for the purposes of his household out of a spring therein. This is an easement.

(*c*) A, as the owner of a certain house, has the right to conduct water from B's stream to supply the fountains in the garden attached to the house. This is an easement.

(*d*) A, as the owner of a certain house and farm, has the right to graze a certain number of his own cattle on B's field or to take for the purpose of being used in the house, by himself, his family, guests, lodgers and servants, water, or fish out of C's tank, or timber out of D's wood, or to use, for the purpose of manuring his land, the leaves which have fallen from the trees on E's land. These are easements.

(*e*) A dedicates to the public the right to occupy the surface of certain land for the purpose of passing and re-passing. This right is not an easement.

(*f*) A is bound to cleanse a water-course running through his land and keep it free from obstruction for the benefit of B, a lower riparian owner. This is not an easement.

Continuous and discontinuous apparent and non-apparent easements.

5. Easements are either continuous or discontinuous, apparent or non-apparent.

A continuous easement is one whose enjoyment is, or may be, continual without the act of man.

A discontinuous easement is one that needs the act of man for its enjoyment.

An apparent easement is one, the existence of which is shown by some permanent sign which, upon careful inspection by a competent person, would be visible to him.

A non-apparent easement is one that has no such sign.

Illustrations.

(*a*) A right, annexed to B's house to receive light by the windows without obstruction by his neighbour A. This is a continuous easement.

(*b*) A right of way annexed to A's house over B's land. This is a discontinuous easement.

(*c*) Rights annexed to A's land to lead water thither across B's land by an aqueduct and to draw off water thence by a drain. The drain would be discovered upon careful inspection by a person conversant with such matters. These are apparent easements.

(*d*) A right, annexed to A's house to prevent B from building on his own land. This is a non-apparent easement.

Easement for limited time or on condition.

6. An easement may be permanent, or for a term of years or other limited period, or subject to periodical interruption, or exercisable only at a certain place or at certain times, or between certain hours, or for a particular purpose or on condition that it shall commence or become void or voidable on the happening of a specified event or the performance or non-performance of a specified act.

(Chapter I—Of Easements generally)

Easements restrictive of certain rights.

7. Easements are restrictions of one or other of the following rights (namely):—

Exclusive right to enjoy.

(*a*) the exclusive right of every owner of immovable property (subject to any law for the time being in force) to enjoy and dispose of the same and all products thereof and accessions thereto;

Rights to advantages arising from situation.

(*b*) the right of every owner of immovable property (subject to any law for the time being in force) to enjoy without disturbance by another; the natural advantages arising from its situation.

Illustrations of the Rights above referred to.

(*a*) The exclusive right of every owner of land in a town to build on such land, subject to any Municipal law for the time being in force.

(*b*) The right of every owner of land that the air passing thereto shall not be unreasonably polluted by other persons.

(*c*) The right of every owner of a house that, his physical comfort shall not be interfered with materially and unreasonably, by noise or vibration caused by any other person.

(*d*) The right of every owner of land to so much light and air as pass vertically thereto.

(*e*) The right of every owner of land that such land, in its natural condition, shall have the support naturally rendered by the subjacent soil of another person.

Explanation.—Land is in its natural condition when it is not excavated and not subjected to artificial pressure; and the "subjacent and adjacent soil" mentioned in this illustration means such soil only as in its natural condition would support the dominant heritage in its natural condition.

(*f*) The right of every owner of land that, within his own limits, the water which naturally passes or percolates by, over or through his land shall not, before so passing or percolating, be unreasonably polluted by other persons.

(*g*) The right of every owner of land to collect and dispose within his own limits of all water under the land which does not pass in a defined channel and all water on its surface which does not pass in a defined channel.

(*h*) The right of every owner of land that the water of every natural stream which passes by, through or over his land in a defined natural channel shall be allowed by other persons to flow within such owner's limits without interruption and without material alteration in quantity, direction, force, or temperature: the right of every owner of land abutting on a natural lake or pond into or out of which a natural stream flows, that the water of such lake or pond shall be allowed by other persons to remain within such owner's limits without material alteration in quantity or temperature.

(Chapter II—The Imposition, Acquisition and Transfer of Easements)

(*i*) The right of every owner of upper land that water, naturally rising in, or falling on, such land and not passing in defined channels, shall be allowed by the owner of adjacent lower land to run naturally thereto.

(*j*) The right of every owner of land abutting on a natural stream, lake or pond to use and consume its water for drinking, household purposes and watering his cattle and sheep; and the right of every such owner to use and consume the water for irrigating such land, and for the purpose of any manufactory situate thereon, provided that he does not thereby cause material injury to other like owners.

Explanation.—A natural stream is a stream, whether permanent or intermittent, tidal or tideless, on the surface of land or underground, which flows by the operation of nature only and in a natural and known course.

CHAPTER II.

THE IMPOSITION, ACQUISITION AND TRANSFER OF EASEMENTS.

Who may impose easements.

8. An easement may be imposed by any one in the circumstances, and to the extent, in and to which he may transfer his interest in the heritage on which the liability is to be imposed.

Illustrations.

(*a*) A is tenant of B's land under a lease for an unexpired term of twenty years, and has power to transfer his interest under the lease. A may impose an easement on the land to continue during the time that the lease exists or for any shorter period.

(*b*) A is tenant for his life of certain land with remainder to B absolutely. A cannot, unless with B's consent, impose an easement thereon which will continue after the determination of his life-interest.

(*c*) A, B and C are co-owners of certain land. A cannot without the consent of B and C, impose an easement on the land or on any part thereof.

(*d*) A and B are lessees of the same lessor, A of a field X for a term of five years, and B of a field Y for a term of ten years. A's interest under his lease is transferable; B's is not. A may impose on X, in favour of B, a right of way terminable with A's lease.

Servient owners.

9. Subject to the provisions of section 8, a servient owner may impose on the servient heritage, any easement that does not lessen the utility of the existing easement. But he cannot, without the consent of the dominant

owner, impose an easement on the servient heritage which would lessen such utility.

Illustrations.

(*a*) A has, in respect of his mill, a right to the uninterrupted flow thereto, from sunrise to noon, of the water of B's stream. B may grant to C the right to divert the water of the stream from noon to sunset: provided that A's supply is not thereby diminished.

(*b*) A has, in respect of his house, a right of way over B's land. B may grant to C, as the owner of a neighbouring farm, the right to feed his cattle on the grass growing on the way: provided that A's right of way is not thereby obstructed.

Lessor and mortgagor.

10. Subject to the provisions of section 8, a lessor may impose, on the property leased any easement that does not derogate from the rights of the lessee as such, and a mortgagor may impose, on the property mortgaged, any easement that does not render the security insufficient. But a lessor or mortgagor cannot, without the consent of the lessee or mortgagee, impose any other easement on such property, unless it be to take effect on the termination of the lease or the redemption of the mortgage.

Explanation.—A security is insufficient within the meaning of this section unless the value of the mortgaged property exceeds by one-third, or, if consisting of buildings, exceeds by one-half, the amount for the time being due on the mortgage.

Lessee.

11. No lessee or other person having a derivative interest may impose on the property held by him as such an easement to take effect after the expiration of his own interest, or in derogation of the right of the lessor or the superior proprietor.

Who may acquire easements.

12. An easement may be acquired by the owner of the immovable property for the beneficial enjoyment of which the right is created, or, on his behalf, by any person in possession of the same.

One of two or more co-owners of immovable property may, as such, with or without the consent of the other or others, acquire an easement for the beneficial enjoyment of such property.

(Chapter II—The Imposition, Acquisition and Transfer of Easements)

No lessee of immovable property can acquire, for the beneficial enjoyment of other immovable property of his own, an easement in or over the property comprised in his lease.

Easements of necessity and quasi-easements.

13. Where one person transfers or bequeaths immovable property to another—

(*a*) if an easement in other immovable property of the transferor or testator is necessary for enjoying the subject of the transfer or bequest, the transferee or legatee shall be entitled to such easement; or

(*b*) if such an easement is apparent and continuous and necessary for enjoying the said subject as it was enjoyed when the transfer or bequest took effect, the transferee or legatee shall, unless a different intention is expressed or necessarily implied, be entitled to such easement;

(*c*) if an easement in the subject of the transfer or bequest is necessary for enjoying other immovable property of the transferor or testator, the transferor or the legal representative of the testator shall be entitled to such easement; or

(*d*) if such an easement is apparent and continuous and necessary for enjoying the said property as it was enjoyed when the transfer or bequest took effect, the transferor, or the legal representative of the testator shall, unless a different intention is expressed or necessarily implied, be entitled to such easement.

Where a partition is made of the joint property of several persons,—

(*e*) if an easement over the share of one of them is necessary for enjoying the share of another of them, the latter shall be entitled to such easement, or

(*f*) if such an easement is apparent and continuous and necessary for enjoying the share of the latter as it was enjoyed when the partition took effect, he shall, unless a different intention is expressed or necessarily implied, be entitled to such easement.

The easements mentioned in this section, clauses (*a*), (*c*) and (*e*), are called easements of necessity.

(Chapter II—The Imposition, Acquisition and Transfer of Easements)

Where immovable property passes by operation of law, the persons from and to whom it so passes are, for the purpose of this section, to be deemed, respectively, the transferor and transferee.

Illustrations.

(*a*) A sells B a field then used for agricultural purposes only. It is inaccessible except by passing over A's adjoining land or by trespassing on the land of a stranger. B is entitled to a right of way, for agricultural purposes only, over A's adjoining land to the field sold

(*b*) A, the owner of two fields, sells one to B, and retains the other. The field retained was, at the date of the sale, used for agricultural purposes only and is inaccessible except by passing over the field sold to B. A is entitled to a right of way, for agricultural purposes only, over B's field to the field retained.

(*c*) A sells B a house with windows overlooking A's land which A retains. The light which passess over A's land to the windows is necessary for enjoying the house as it was enjoyed when the sale took effect. B is entitled to the light, and A cannot afterwards obstruct it by building on his land.

(*d*) A sells B a house with windows overlooking A's land. The light passing over A's land to the windows is necessary for enjoying the house as it was enjoyed when the sale took effect. Afterwards A sells the land to C. Here C cannot obstruct the light by building on the land, for he takes it subject to the burdens to which it was subject in A's hands.

(*e*) A is the owner of a house and adjoining land. The house has windows overlooking the land. A simultaneously sells the house to B and the land to C. The light passing over the land is necessary for enjoying the house as it was enjoyed when the sale took effect. Here A impliedly grants B a right to the light, and C takes the land subject to the restriction that he may not build so as to obstruct such light.

(*f*) A is the owner of a house and adjoining land. The house has windows overlooking the land. A, retaining the house, sells the land to B, without expressly reserving any easement. The light passing over the land is necessary for enjoying the house as it was enjoyed when the sale took effect. A is entitled to the light, and B cannot build on the land so as to obstruct such light.

(*g*) A, the owner of a house, sells B a factory built on adjoining land. B is entitled, as against A, to pollute the air, when necessary, with smoke and vapours from the factory.

(*h*) A, the owner of two adjoining houses, Y and Z, sells Y to B, and retains Z. B is entitled to the benefit of all the gutters and drains common to the two houses and necessary for enjoying Y as it was enjoyed when the sale took effect, and A is entitled to the benefit of all the gutters and drains common to the two houses and necessary for enjoying Z, as it was enjoyed when the sale took effect.

(Chapter II—The Imposition, Acquisition and Transfer of Easements)

(*i*) A, the owner of two adjoining buildings, sells one to B, retaining the other. B is entitled to a right to lateral support from A's building, and A is entitled to a right to lateral support from B's building.

(*j*) A, the owner of two adjoining buildings, sells one to B and the other to C. C is entitled to lateral support from B's building, and B is entitled to lateral support from C's building

(*k*) A grants lands to B for the purpose of building a house thereon. B is entitled to such amount of lateral and subjacent support from A's land as is necessary for the safety of the house.

(*l*) Under the Land Acquisition Act, 1894, a Railway Company compulsorily acquires a portion of B's land for the purpose of making a siding. The Company is entitled to such amount of lateral support from B's adjoining land as is essential for the safety of the siding.

(*m*) Owing to the partition of joint property, A becomes the owner of an upper room in a building, and B becomes the owner of the portion of the building immediately beneath it. A is entitled to such amount of vertical support from B's portion as is essential for the safety of the upper room.

(*n*) A lets a house and grounds to B for a particular business. B has no access to them other than by crossing A's land. B is entitled to a right of way over that land suitable to the business to be carried on by B in the house and grounds.

Direction of way of necessity.

14. When a right to a way of necessity is created under section 13, the transferor, the legal representative of the testator, or the owner of the share over which the right is exercised, as the case may be, is entitled to set out the way; but it must be reasonably convenient for the dominant owner.

When the person so entitled to set out the way refuses or neglects to do so, the dominant owner may set it out.

Acquisition by prescription.

15. Where the access and use of light or air, to and for any building have been peaceably enjoyed therewith, as an easement, without interruption, and for twenty years,

and where support from one person's land, or things affixed thereto, has been peaceably received by another person's land subjected to artificial pressure, or by things affixed thereto, as an easement, without interruption, and for twenty years,

and where a right of way or any other easement has been peaceably and openly enjoyed by any person claiming title thereto, as an easement, and as of right, without interruption, and for twenty years,

the right to such access and use of light or air, support or other easement shall be absolute.

Each of the said periods of twenty years shall be taken to be a period ending within two years next before the institution of the suit wherein the claim to which such period relates is contested.

Explanation I.—Nothing is an enjoyment within the meaning of this section when it has been had in pursuance of an agreement with the owner or occupier of the property over which the right is claimed, and it is apparent from the agreement that such right has not been granted as an easement, or, if granted as an easement, that it has been granted for a limited period, or subject to a condition on the fulfilment of which it is to cease.

Explanation II.—Nothing is an interruption within the meaning of this section, unless where there is an actual cessation of the enjoyment by reason of an obstruction by the act of some person other than the claimant, and unless such obstruction is submitted to or acquiesced in for one year after the claimant has notice thereof and of the person making or authorizing the same to be made.

Explanation III.—Suspension of enjoyment in pursuance of a contract between the dominant and servient owners is not an interruption within the meaning of this section.

Explanation IV.—In the case of an easement to pollute water, the said period of twenty years begins when the pollution first prejudices perceptibly the servient heritage.

When the property over which a right is claimed under this section belongs to Government, this section shall be read as if for the words " twenty years " the words " sixty years " were substituted.

Illustrations.

(*a*) A suit is brought in 1883 for obstructing a right of way, The defendant admits the obstruction, but denies the right of way. The plaintiff proves that the right was peaceably and openly enjoyed by him claiming title thereto as an easement and as of right, without interruption, from 1st January, 1862 to 1st January, 1882. The plaintiff is entitled to judgment.

(Chapter II—The Imposition, Acquisition and Transfer of Easements)

(*b*) In a like suit, the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that for a year of that time the plaintiff was entitled to possession of the servient heritage as lessee thereof and enjoyed the right as such lessee. The suit shall be dismissed, for the right of way has not been enjoyed " as an easement " for twenty years.

(*c*) In a like suit, the plaintiff shows that the right was peaceably and openly enjoyed by him for twenty years. The defendant proves that the plaintiff on one occasion during the twenty years had admitted that the user was not of right and asked his leave to enjoy the right. The suit shall be dismissed, for the right of way has not been enjoyed " as of right " for twenty years.

Exclusion in favour of reversioner of servient heritage.

16. Provided that, when any land upon, over or from which any easement has been enjoyed or derived has been held under or by virtue of any interest for life or any term of years exceeding three years from the granting thereof, the time of the enjoyment of such easement during the continuance of such interest or term shall be excluded in the computation of the said last-mentioned period of twenty years, in case the claim is, within three years next after the determination of such interest or term, resisted by the person entitled, on such determination, to the said land.

Illustration.

A sues for a declaration that he is entitled to a right of way over B's land. A proves that he has enjoyed the right for twenty-five years, but B shows that during ten of these years C had a life-interest in the land, that on C's death, B became entitled to the land, and that within two years after C's death, he contested A's claim to the right. The suit must be dismissed, as A, with reference to the provisions of this section, has only proved enjoyment for fifteen years.

Rights which cannot be acquired by prescription.

17. Easements acquired under section 15 are said to be acquired by prescription, and are called prescriptive rights.

None of the following rights can be so acquired :—

(*a*) a right which would tend to the total destruction of the subject of the right, or the property on which, if the acquisition were made, liability would be imposed ;

(*b*) a right to the free passage of light or air to an open space of ground ;

(*c*) a right to surface-water not flowing in a stream and not permanently collected in a pool, tank or otherwise ;

(*d*) a right to underground water not passing in a defined channel.

Customary easements.

18. An easement may be acquired in virtue of a local custom. Such easements are called customary easements.

Illustrations.

(*a*) By the custom of a certain village, every cultivator of village land is entitled, as such, to graze his cattle on the common pasture. A, having become the tenant of a plot of uncultivated land in the village, breaks up and cultivates that plot. He thereby acquires an easement to graze his cattle in accordance with the custom.

(*b*) By the custom of a certain town, no owner or occupier of a house can open a new window therein so as substantially to invade his neighbour's privacy. A builds a house in the town near B's house. A thereupon acquires an easement that B shall not open new windows in his house so as to command a view of the portions of A's house which are ordinarily excluded from observation, and B acquires a like easement with respect to A's house.

Transfer of dominant heritage passes easement.

19. Where the dominant heritage is transferred or devolves, by act of parties or by operation of law, the transfer or devolution shall, unless a contrary intention appears, be deemed to pass the easement to the person in whose favour the transfer or devolution takes place.

Illustration.

A has certain land to which a right of way is annexed. A lets the land to B for twenty years. The right of way vests in B and his legal representative so long as the lease continues.

CHAPTER III.

THE INCIDENTS OF EASEMENTS.

Rules controlled by contract or title.

20. The rules contained in this chapter are controlled by any contract between the dominant and servient owners relating to the servient heritage, and by the provisions of the instrument or decree, if any, by which the easement referred to was imposed.

(Chapter III—The Incidents of Easements)

And when any incident of any customary easement is inconsistent with such rules, nothing in this chapter shall affect such incident. Incidents of customary easements.

21. An easement must not be used for any purpose not connected with the enjoyment of the dominant heritage. Bar to use unconnected with enjoyment.

Illustrations.

(*a*) A, as owner of a farm Y, has a right of way over B's land to Y. Lying beyond Y, A has another farm Z, the beneficial enjoyment of which is not necessary for the beneficial enjoyment of Y. He must not use the easement for the purpose of passing to and from Z.

(*b*) A, as owner of a certain house, has a right of way to and from it. For the purpose of passing to and from the house, the right may be used, not only by A, but by the members of his family, his guests, lodgers, servants, workmen, visitors and customers; for this is a purpose connected with the enjoyment of the dominant heritage. So, if A lets the house, he may use the right of way for the purpose of collecting the rent and seeing that the house is kept in repair.

22. The dominant owner must exercise his right in the mode which is least onerous to the servient owner; and when the exercise of an easement can without detriment to the dominant owner be confined to a determinate part of the servient heritage, such exercise shall, at the request of the servient owner, be so confined. Exercise of easement. Confinement of exercise of easement.

Illustrations.

(*a*) A has a right of way over B's fields; A must enter the way at either end, and not at any intermediate point.

(*b*) A has a right annexed to his house to cut thatching grass in B's swamp. A, when exercising his easement, must cut the grass so that the plants may not be destroyed.

23. Subject to the provisions of section 22, the dominant owner may, from time to time, alter the mode and place of enjoying the easement, provided that he does not thereby impose any additional burden on the servient heritage. Right to alter mode of enjoyment.

Exception.—The dominant owner of a right of way cannot vary his line of passage at pleasure, even though he does not thereby impose any additional burden on the servient heritage.

Illustrations.

(*a*) A, the owner of a saw-mill, has a right to a flow of water sufficient to work the mill. He may convert the saw-mill into a corn-mill, provided that it can be worked by the same amount of water.

(*b*) A has a right to discharge on B's land the rain-water from the eaves of A's house. This does not entitle A to advance his eaves if, by so doing, he imposes a greater burden on B's land.

(*c*) A, as the owner of a paper-mill, acquires a right to pollute a stream by pouring in the refuse—liquor produced by making in the mill paper from rags. He may pollute the stream by pouring in similar liquor produced by making in the mill paper by a new process from bamboos, provided that he does not substantially increase the amount, or injuriously change the nature of the pollution.

(*d*) A, a riparian owner, acquires as against the lower riparian owners, a prescriptive right to pollute a stream by throwing sawdust into it. This does not entitle A to pollute the stream by discharging into it poisonous liquor.

Right to do acts to secure enjoyment.

24. The dominant owner is entitled, as against the servient owner, to do all acts necessary to secure the full enjoyment of the easement; but such acts must be done at such time and in such manner as, without detriment to the dominant owner, to cause the servient owner as little inconvenience as possible; and the dominant owner must repair, as far as practicable, the damage (if any) caused by the act to the servient heritage.

Accessory rights.

Rights to do acts necessary to secure the full enjoyment of an easement are called accessory rights.

Illustrations.

(*a*) A has an easement to lay pipes in B's land to convey water to A's cistern. A may enter and dig the land in order to mend the pipes, but he must restore the surface to its original state.

(*b*) A has an easement of a drain through B's land. The sewer with which the drain communicates is altered. A may enter upon B's land and alter the drain, to adapt it to the new sewer, provided that he does not thereby impose any additional burden on B's land.

(*c*) A, as owner of a certain house, has a right of way over B's land. The way is out of repair, or a tree is blown down and falls across it. A may enter on B's land and repair the way or remove the tree from it.

(*d*) A, as owner of a certain field, has a right of way over B's land. B renders the way impassable. A may deviate from the way and pass over the adjoining land of B, provided that the deviation is reasonable.

(*e*) A, as owner of a certain house, has a right of way over B's field. A may remove rocks to make the way.

(*f*) A has an easement of support from B's wall. The wall gives way. A may enter upon B's land and repair the wall.

(*g*) A has an easement to have his land flooded by means of a dam in B's stream. The dam is half swept away by an inundation. A may enter upon B's land and repair the dam.

(*Chapter III—The Incidents of Easements*)

25. The expenses incurred in constructing works or making repairs, or doing any other act necessary for the use or preservation of an easement, must be defrayed by the dominant owner. Liability for expenses necessary for preservation of easement.

26. Where an easement is enjoyed by means of an artificial work, the dominant owner is liable to make compensation for any damage to the servient heritage arising from the want of repair of such work. Liability for damage from want of repair.

27. The servient owner is not bound to do anything for the benefit to the dominant heritage, and he is entitled, as against the dominant owner, to use the servient heritage in any way consistent with the enjoyment of the easement; but he must not do any act tending to restrict the easement or to render its exercise less convenient. Servient owner not bound to do anything.

Illustrations.

(*a*) A, as owner of a house, has a right to lead water and send sewage through B's land. B is not bound as servient owner to clear the water-course or scour the sewer.

(*b*) A grants a right of way through his land to B as owner of a field. A may feed his cattle on grass, growing on the way, provided that B's right of way is not thereby obstructed; but he must not build a wall at the end of his land so as to prevent B from going beyond it, nor must he narrow the way so as to render the exercise of the right less easy than it was at the date of the grant.

(*c*) A, in respect of his house, is entitled to an easement of support from B's wall. B is not bound as servient owner to keep the wall standing and in repair. But he must not pull down or weaken the wall so as to make it incapable of rendering the necessary support.

(*d*) A, in respect of his mill, is entitled to a water-course through B's land. B must not drive stakes so as to obstruct the water-course.

(*e*) A, in respect of his house, is entitled to a certain quantity of light passing over B's land. B must not plant trees so as to obstruct the passage to A's windows of that quantity of light.

28. With respect to the extent of easements and the mode of their enjoyment, the following provisions shall take effect:— Extent of easements.

An easement of necessity is co-extensive with the necessity as it existed when the easement was imposed. Easement of necessity.

The extent of any other easement and the mode of its enjoyment must be fixed with reference to the probable intention of the parties, and the purpose for which the right was imposed or acquired. Other easements.

In the absence of evidence as to such intention and purpose—

Right of way.

(*a*) a right of way of any one kind does not include a right of way of any other kind:

Right to light or air acquired by grant.

(*b*) the extent of a right to the passage of light or air to a certain window, door or other opening, imposed by a testamentary or non-testamentary instrument, is the quantity of light or air that entered the opening at the time the testator died or the non-testamentary instrument was made:

Prescriptive right to light or air.

(*c*) the extent of a prescriptive right to the passage of light or air to a certain window, door or other opening, is that quantity of light or air which was reasonably sufficient, coming through that opening, for the convenient and comfortable use and enjoyment of the house and its beneficial employment as it was enjoyed at the commencement of the prescriptive period:

Prescriptive right to pollute air and water.

(*d*) the extent of a prescriptive right to pollute air or water is the extent of the pollution at the commencement of the period of user on completion of which the right arose: and

Other prescriptive rights.

(*e*) the extent of every other prescriptive right and mode of its enjoyment must be determined by the accustomed user of the right.

Increase of easement.

29. The dominant owner cannot, by merely altering or adding to the dominant heritage, substantially increase an easement.

Where an easement has been granted or bequeathed so that its extent shall be proportionate to the extent of the dominant heritage, if the dominant heritage is increased by alluvion, the easement is proportionately increased, and if the dominant heritage is diminished by diluvion, the easement is proportionately diminished.

Save as aforesaid, no easement is affected by any change in the extent of the dominant or the servient heritage.

Illustrations.

(*a*) A, the owner of a mill, has acquired a prescriptive right to divert to his mill, part of the water of a stream. A alters the machinery of his mill. He cannot thereby increase his right to divert water.

(*b*) A has aequired an easement to pollute a stream by carrying on a manufacture on its banks by which a certain quantity of foul matter is discharged into it. A extends his works and thereby increases the quantity discharged. He is responsible to the lower riparian owners for injury done by such increase.

(*c*) A, as the owner of a farm, has a right to take, for the purpose of manuring his farm, leaves which have fallen from the trees on B's land. A buys a field and unites it to his farm. A is not thereby entitled to take leaves to manure this field.

Partition of dominant heritage.

30. Where a dominant heritage is divided between two or more persons, the easement becomes annexed to each of the shares, but not so as to increase substantially the burden of the servient heritage: provided that such annexation is consistent with the terms of the instrument, decree or revenue proceeding (if any) under which the division was made, and, in the case of prescriptive rights, with the user during the prescriptive period.

Illustrations.

(*a*) A house to which, a right of way by a particular path is annexed, is divided into two parts, one of which is granted to A, the other to B. Each is entitled, in respect of his part, to a right of way by the same path.

(*b*) A house to which is annexed the right of drawing water from a well to the extent of fifty buckets a day is divided into two distinct heritages, one of which is granted to A, the other to B. A and B are each entitled, in respect of his heritage to draw from the well fifty buckets a day; but the amount drawn by both must not exceed fifty buckets a day.

(*c*) A, having in respect of his house an easement of light, divides the house into three distinct heritages. Each of these continues to have the right to have its windows unobstructed.

Obstruction in case of excessive user.

31. In the case of excessive user of an easement, the servient owner may, without prejudice to any other remedies to which he may be entitled, obstruct the user, but only on the servient heritage: provided that such user cannot be obstructed when the obstruction would interfere with the lawful enjoyment of the easement.

Illustration.

A, having a right to the free passage over B's land of light to four windows six feet by four, increases their size and number. It is impossible to obstruct the passage of light to the new windows without also obstructing the passage of light to the ancient windows. B cannot obstruct the excessive user.

CHAPTER IV.

THE DISTURBANCE OF EASEMENTS.

Right to enjoyment without disturbance.

32. The owner or occupier of the dominant heritage is entitled to enjoy the easement without disturbance by any other person.

Illustration.

A, as owner of a house, has a right of way over B's land. C unlawfully enters on B's land, and obstructs A in his right of way. A may sue C for compensation, not for the entry, but for the obstruction.

Suit for disturbance of easement.

33. The owner of any interest in the dominant heritage, or the occupier of such heritage, may institute a suit for compensation for the disturbance of the easement or of any right accessory thereto: provided that the disturbance has actually caused substantial damage to the plaintiff.

Explanation I.—The doing of any act likely to injure the plaintiff by affecting the evidence of the easement, or by materially diminishing the value of the dominant heritage, is substantial damage within the meaning of this section and section 34.

Explanation II.—Where the easement disturbed is a right to the free passage of light passing to the openings in a house, no damage is substantial within the meaning of this section, unless it falls within the first explanation, or interferes materially with the physical comfort of the plaintiff, or prevents him from carrying on the business, if any, which was carried on at the commencement of the prescriptive period in the dominant heritage as beneficially as he had done previous to instituting the suit.

Explanation III.—Where the easement disturbed is a right to the free passage of air to the openings in a house, damage is substantial within the meaning of this section if it interferes materially with the physical comfort of the plaintiff, though it is not injurious to his health.

Illustrations.

(*a*) A places a permanent obstruction in a path over which B, as tenant of C's house has a right of way. This is substantial damage to C, for it may affect the evidence of his reversionary right to the easement.

(*b*) A, as owner of a house, has a right to walk along one side of B's house. B builds a verandah overhanging the way about 10 feet from the ground, and so as not to occasion any inconvenience to foot-passengers using the way. This is not substantial damage to A.

When cause of action arises for removal of support.

34. The removal of the means of support to which a dominant owner is entitled does not give rise to a right to recover compensation, unless and until substantial damage is actually sustained.

Injunction to restrain disturbance.

35. Subject to the provisions of the Specific Relief Act, 1877, sections 52 to 57 (both inclusive), an injunction may be granted to restrain the disturbance of an easement—

(*a*) if the easement is actually disturbed,—when compensation for such disturbance might be recovered under this chapter;

(*b*) if the disturbance is only threatened or intended,—when the act threatened or intended must necessarily, if performed, disturb the easement.

Abatement of obstruction of easement.

36. Notwithstanding the provisions of section 24, the dominant owner cannot himself abate a wrongful obstruction of an easement.

CHAPTER V.

THE EXTINCTION, SUSPENSION AND REVIVAL OF EASEMENTS.

Extinction by dissolution of right of servient owner.

37. When, from a cause which preceded the imposition of an easement, the person by whom it was imposed ceases to have any right in the servient heritage, the easement is extinguished.

Exception.—Nothing in this section applies to an easement lawfully imposed by a mortgagor in accordance with section 10.

Illustrations.

(*a*) A transfers Sultanpur to B on condition that he does not marry C. B imposes an easement on Sultanpur. Then B marries C. B's interest in Sultanpur ends, and with it the easement is extinguished.

(*b*) A, in 1860, lets Sultanpur to B for thirty years from the date of the lease. B, in 1861, imposes an easement on the land in favour of C, who enjoys the easement peaceably and openly as an easement without interruption for twenty-nine years. B's interest in Sultanpur then ends, and with it C's easement.

(*c*) A and B, tenants of C, have permanent transferable interests in their respective holdings. A imposes on his holding an easement to draw water from a tank for the purpose of irrigating B's land. B enjoys the easement for twenty years. Then A's rent falls into arrear and his interest is sold. B's easement is extinguished.

(*d*) A mortgages Sultanpur to B, and lawfully imposes an easement on the land in favour of C in accordance with the provisions of section 10. The land is sold to D in satisfaction of the mortgage debt. The easement is not thereby extinguished.

Extinction by release.

38. An easement is extinguished when the dominant owner releases it, expressly or impliedly, to the servient owner.

Such release can be made only in the circumstances and to the extent in and to which the dominant owner can alienate the dominant heritage.

An easement may be released as to part only of the servient heritage.

Explanation I.—An easement is impliedly released—

(*a*) where the dominant owner expressly authorises an act of a permanent nature to be done on the servient heritage, the necessary consequence of which is to prevent his future enjoyment of the easement, and such act is done in pursuance of such authority;

(*b*) where any permanent alteration is made in the dominant heritage of such a nature as to show that the dominant owner intended to cease to enjoy the easement in future.

Explanation II.—Mere non-user of an easement is not an implied release within the meaning of this section.

Illustrations.

(*a*) A, B and C are co-owners of a house to which an easement is annexed. A, without the consent of B and C, releases the easement. This release is effectual only as against A and his legal representative.

(*b*) A grants B, an easement over A's land for the beneficial enjoyment of his house. B assigns the house to C; B then purports to release the easement. The release is ineffectual.

(Chapter V—The Extinction, Suspension and Revival of Easements)

(*c*) A having the right to discharge his eaves droppings into B's yard, expressly authorises B to build over this yard to a height which will interfere with the discharge. B builds accordingly. A's easement is extinguished to the extent of the interference.

(*d*) A, having an easement of light to a window, builds up that window with bricks and mortar so as to manifest an intention to abandon the easement permanently. The easement is impliedly released.

(*e*) A, having a projecting roof by means of which he enjoys an easement to discharge eaves droppings on B's land, permanently alters the roof, so as to direct the rain-water into a different channel, and discharge it on C's land. The easement is impliedly released.

Extinction by revocation.

39. An easement is extinguished when the servient owner, in exercise of a power reserved in this behalf, revokes the easement.

Extinction on expiration of limited period or happening of dissolving condition.

40. An easement is extinguished where it has been imposed for a limited period, or acquired on condition that it shall become void on the performance or non-performance of a specified act, and the period expires or the condition is fulfilled.

Extinction on termination of necessity.

41. An easement of necessity is extinguished when the necessity comes to an end.

Illustration.

A grants B a field inaccessible except by passing over A's adjoining land. B afterwards purchases a part of that land over which he can pass to his field. The right of way over A's land which B had acquired is extinguished.

Extinction of useless easement.

42. An easement is extinguished when it becomes incapable of being at any time and under any circumstances beneficial to the dominant owner.

Extinction by permanent change in dominant heritage.

43. Where by any permanent change in the dominant heritage, the burden on the servient heritage is materially increased and cannot be reduced by the servient owner without interfering with the lawful enjoyment of the easement, the easement is extinguished, unless—

(*a*) it was intended for the beneficial enjoyment of the dominant heritage, to whatever extent the easement should be used; or

(*b*) the injury caused to the servient owner by the change is so slight that no reasonable person would complain of it; or

(*c*) the easement is an easement of necessity.

Nothing in this section shall be deemed to apply to an easement entitling the dominant owner to support of the dominant heritage.

Extinction on permanent alteration of servient heritage by superior force.

44. An easement is extinguished where the servient heritage is by superior force so permanently altered that the dominant owner can no longer enjoy such easement:

Provided that, where a way of necessity is destroyed by superior force, the dominant owner has a right to another way over the servient heritage; and the provisions of section 14 apply to such way.

Illustrations.

(*a*) A, grants to B, as the owner of a certain house, a right to fish in a river running through A's land. The river changes its course permanently and runs through C's land. B's easement is extinguished.

(*b*) Access to path over which A has a right of way is permanently cut off by an earthquake. A's right is extinguished.

Extinction by destruction of either heritage.

45. An easement is extinguished when either the dominant or the servient heritage is completely destroyed.

Illustration.

A has a right of way over a strip of land between a cliff and sea, which forms the whole servient heritage. The strip is completely submerged and washed away. The easement is extinguished.

Extinction by unity of ownership.

46. An easement is extinguished when the same person becomes entitled to the absolute ownership of the whole of the dominant and servient heritages.

Illustrations.

(*a*) A, as the owner of a house, has a right of way over B's field. A mortgages his house, and B mortgages his field to C. Then C forecloses both mortgages and becomes thereby absolute owner of both house and field. The right of way is extinguished.

(*b*) The dominant owner acquires only part of the servient heritage; the easement is not extinguished, except in the case illustrated in section 41.

(Chapter V—The Extinction, Suspension and Revival of Easements)

(*c*) The servient owner acquires the dominant heritage in connection with a third person : the easement is not extinguished.

(*d*) The separate owners of two separate dominant heritages jointly acquire the heritage which is servient to the two separate heritages : the easements are not extinguished.

(*e*) The joint owners of the dominant heritage jointly acquire the servient heritage : the easement is extinguished.

(*f*) A single right of way exists over two servient heritages for the beneficial enjoyment of a single dominant heritage. The dominant owner acquires one only of the servient heritages. The easement is not extinguished.

(*g*) A has a right of way over B's road. B dedicates the road to the public. A's right of way is not extinguished.

Extinction by non-enjoyment.

47. A continuous easement is extinguished when it totally ceases to be enjoyed as such for an unbroken period of twenty years.

A discontinuous easement is extinguished when, for a like period, it has not been enjoyed as such.

Such period shall be reckoned, in the case of a continuous easement, from the day on which its enjoyment was obstructed by the servient owner, or rendered impossible by the dominant owner; and, in the case of a discontinuous easement, from the day on which it was last enjoyed by any person as dominant owner :

Provided that if, in the case of a discontinuous easement, the dominant owner, within such period, registers, under the Mysore Registration Act, 1903,[1] a declaration of his intention to retain such easement, it shall not be extinguished until a period of twenty years has elapsed from the date of the registration.

Where an easement can be legally enjoyed only at a certain place, or at certain times, or between certain hours, or for a particular purpose, its enjoyment during the said period at another place, or at other times, or between other hours, or for another purpose, does not prevent its extinction under this section.

The circumstance that, during the said period, no one was in possession of the servient heritage, or that the easement could not be enjoyed, or that a right accessory thereto was enjoyed, or that the dominant owner was not aware of its existence, or that he enjoyed it in ignorance

1. See the Part B States (Laws) Act, 1951 (Central Act III of 1951.)

of his right to do so, does not prevent its extinction under this section.

An easement is not extinguished under this section—

(*a*) where the cessation is in pursuance of a contract between the dominant and servient owners;

(*b*) where the dominant heritage is held in co-ownership, and one of the co-owners enjoys the easement within the said period; or

(*c*) where the easement is a necessary easement.

Where several heritages are respectively subject to rights of way for the benefit of a single heritage, and the ways are continuous, such rights shall, for the purpose of this section, be deemed to be a single easement.

Illustration.

A has, as annexed to his house, rights of way from the high road thither over the heritages X and Z and the intervening heritage Y. Before the twenty years expire, A exercises his right of way over X. His rights of way over Y and Z are not extinguished.

Extinction of accessory rights.

48. When an easement is extinguished, the rights (if any) accessory thereto are also extinguished.

Illustration.

A has an easement to draw water from B's well. As accessory thereto, he has a right of way over B's land to and from the well. The easement to draw water is extinguished under section 47. The right of way is also extinguished.

Suspension of easement.

49. An easement is suspended when the dominant owner becomes entitled to possession of the servient heritage for a limited interest therein, or when the servient owner becomes entitled to possession of the dominant heritage for a limited interest therein.

Servient owner not entitled to require continuance.

50. The servient owner has no right to require that an easement be continued; and, notwithstanding the provisions of section 26, he is not entitled to compensation for damage caused to the servient heritage in consequence of the extinguishment or suspension of the easement, if the dominant owner has given to the servient owner such notice as will enable him, without unreasonable expense, to pretect the servient heritage from such damage.

(Chapter V—The Extinction, Suspension and Revival of Easements)

Where such notice has not been given, the servient owner is entitled to compensation for damage caused to the servient heritage in consequence of such extinguishment or suspension. Compensation for damage caused by extinguishment.

Illustration.

A, in exercise of an easement, diverts to his canal the water of B's stream. The diversion continues for many years, and during that time the bed of the stream partly fills up. A then abandons his easement, and restores the stream to its ancient course. B's land is consequently flooded. B sues A for compensation for the damage caused by the flooding. It is proved that A gave B a month's notice of his intention to abandon the easement and that such notice was sufficient to enable B, without unreasonable expense, to have prevented the damage. The suit must be dismissed.

51. An easement extinguished under section 45 revives (*a*) when the destroyed heritage is, before twenty years have expired, restored by the deposit of alluvion ; (*b*) when the destroyed heritage is a servient building and before twenty years have expired, such building is rebuilt upon the same site ; and (*c*) when the destroyed heritage is a dominant building and before twenty years have expired, such building is rebuilt upon the same site and in such a manner as not to impose a greater burden on the servient heritage. Revival of easement.

An easement extinguished under section 46 revives when the grant or bequest by which the unity of ownership was produced is set aside by the decree of a competent Court. A necessary easement extinguished under the same section revives when the unity of ownership ceases from any other cause.

A suspended easement revives if the cause of suspension is removed before the right is extinguished under section 47.

Illustration.

A, as the absolute owner of field Y, has a right of way thither over B's field Z. A obtains from B a lease of Z for twenty years. The easement is suspended so long as A remains lessee of Z. But when A assigns the lease to C, or surrenders it to B, the right of way revives.

CHAPTER VI.

LICENSES.

License defined.

52. Where one person grants to another, or to a definite number of other persons, a right to do, or continue to do, in or upon the immovable property of the grantor, something which would, in the absence of such right be unlawful, and such right does not amount to an easement or an interest in the property, the right is called a license.

Who may grant license.

53. A license may be granted by any one in the circumstances and to the extent in and to which he may transfer his interests in the property affected by the license.

Grant may be express or implied.

54. The grant of a license may be express or implied from the conduct of the grantor, and an agreement which purports to create an easement, but is ineffectual for that purpose, may operate to create a license.

Accessory licenses annexed by law.

55. All licenses necessary for the enjoyment of any interest, or the exercise of any right, are implied in the constitution of such interest or right. Such licenses are called accessory licenses.

Illustration.

A sells the trees growing on his land to B. B is entitled to go on the land and take away the trees.

License when transferable.

56. Unless a different intention is expressed or necessarily implied, a license to attend a place of public entertainment may be transferred by the licensee; but, save as aforesaid, a license cannot be transferred by the licensee or exercised by his servants or agents.

Illustrations.

(*a*) A grants B a right to walk over A's field whenever he pleases. The right is not annexed to any immovable property of B. The right cannot be transferred.

(*b*) The Government grant B a license to erect and use temporary grain-sheds on Government land. In the absence of express provision to the contrary, B's servants may enter on the land for the purpose of erecting sheds, erect the same, deposit grain therein and remove grain therefrom.

(Chapter VI—Licenses)

Grantor's duty to disclose defects.

57. The grantor of a license is bound to disclose to the licensee any defect in the property affected by the license, likely to be dangerous to the person or property of the licensee, of which the grantor is, and the licensee is not, aware.

Grantor's duty not to render property unsafe.

58. The grantor of a license is bound not to do anything likely to render the property affected by the license dangerous to the person or property of the licensee.

Grantor's transferee not bound by license.

59. When the grantor of the license transfers the property affected thereby, the transferee is not as such bound by the license.

License when revocable.

60. A license may be revoked by the grantor, unless—

(*a*) it is coupled with a transfer of property and such transfer is in force:

(*b*) the licensee, acting upon the license, has executed a work of a permanent character and incurred expenses in the execution.

Revocation express or implied.

61. The revocation of a license may be express or implied.

Illustrations.

(*a*) A, the owner of a field, grants a license to B to use a path across it. A, with intent to revoke the license, locks a gate across the path. The license is revoked.

(*b*) A, the owner of a field, grants a license to B to stack hay on the field. A lets or sells the field to C. The license is revoked.

License when deemed revoked.

62. A license is deemed to be revoked—

(*a*) when from a cause preceding the grant of it, the grantor ceases to have any interest in the property affected by the license:

(*b*) when the licensee releases it, expressly or impliedly, to the grantor or his representative:

(*c*) where it has been granted for a limited period, or acquired on condition that it shall become void on the performance or non-performance of a specified act, and the period expires or the condition is fulfilled;

(*d*) where the property affected by the license is destroyed or by superior force so permanently altered that the licensee can no longer exercise his right:

(*e*) where the licensee becomes entitled to the absolute ownership of the property affected by the license:

(*f*) where the license is granted for a specified purpose and the purpose is attained, or abandoned, or becomes impracticable:

(*g*) where the license is granted to the licensee as holding a particular office, employment or character, and such office, employment or character ceases to exist:

(*h*) where the license totally ceases to be used as such for an unbroken period of twenty years, and such cessation is not in pursuance of a contract between the grantor and the licensee:

(*i*) in the case of an accessory license when the interest or right to which it is accessory ceases to exist.

Licensee's right of revocation.

63. Where a license is revoked, the licensee is entitled to a reasonable time to leave the property affected thereby and to remove any goods which he has been allowed to place on such property.

Licensee's rights on eviction.

64. Where a license has been granted for a consideration, and the licensee, without any fault of his own, is evicted by the grantor before he has fully enjoyed, under the license, the right for which he contracted, he is entitled to recover compensation from the grantor.

MYSORE ACT No. IX OF 1919.

THE TERMINATION OF THE PRESENT WAR (DEFINITION) ACT, 1919.

(Received the assent of His Highness the Maharaja on the 14th day of July 1919.)

Termination of the Present War (Definition) Act.

WHEREAS it is expedient to make provision to determine the date of the termination of the present war and for purposes connected therewith; His Highness the Maharaja is pleased to enact as follows :—

1. This Act may be called the Termination of the Present War (Definition) Act, 1919. Short Title.

2. For the purposes of any provision in any enactment, or in any notification or rule issued or made thereunder and, except when the context otherwise requires, of any provision in any contract, deed or other instrument referring expressly or impliedly, and in whatever form of words, to the present war or the present hostilities, Date of termination of present war to be such as may be declared by His Majesty in Council.

(1) the present war shall be treated as having continued to and as having ended on such date as His Majesty in Council may declare in that behalf in pursuance of the provisions of the Termination of the Present War (Definition) Act, 1918, and, 8 & 9 George V. C. 59.

(2) the date of the termination of war between His Majesty and any particular State shall be the date similarly declared under sub-section (3) of section 1 of the said Act.

MYSORE ACT No. IV OF 1920.

THE MYSORE HIGHWAY ACT, 1920.

(Received the assent of His Highness the Maharaja on the 29th day of April 1920.)

An Act to provide for the regulation of traffic and preservation of the surface of public roads and places in [1][the State of Mysore except Bellary District].

WHEREAS it is expedient to provide for the regulation of traffic and the preservation of the surface of public roads and places in the [1][State of Mysore except Bellary District], His Highness the Maharaja is pleased to enact as follows :—

Short title, extent and commencement.

1. (1) This Act may be called the Mysore Highway Act, 1920.

(2) It shall extend to the [1][whole of the State of Mysore except Bellary District], and

(3) It shall come into force in such local areas and from such dates as Government may by notification in the Gazette direct.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context,

(1) " Public roads " shall include all roads, bridges, carriageways, causeways, footways, bridleways,

(*a*) over which the public have a right of way, or
(*b*) heretofore maintained out of public funds, or
(*c*) which are declared public roads by the provision of any law for the time being in force,

but not vested in any local authority, and

(2) " Places ", includes vehicle stands, embankments or ramps, camps or refuges forming approaches to public roads, not vested in any local authority.

Power to make rules.

3. (1) Government may make rules for the regulation of traffic on public roads and places and for the preservation of the surface of such roads and places.

1. See the Mysore Adaptation of Laws Order, 1953.

(2) Without prejudice to the generality of the foregoing power, such rules may contain directions as to all or any of the following matters, namely :—

(*a*) prohibiting or restricting the use of vehicles of any particular class or description considered likely to cause damage or excessive wear to the surface of the road or to drop materials or obstructions thereon and in particular, where a berm or side-track is provided, confining such vehicles to the berm or side-track during the dry season ;

(*b*) prohibiting or restricting the use of vehicles not provided with brakes of such character as may be required by the rules ;

(*c*) prohibiting or restricting the use of vehicles or animals which are of such a nature or in such a condition as to be likely to cause annoyance, inconvenience or danger to the public ;

(*d*) providing for the granting of licenses to drive vehicles of any particular class or description, the fees chargeable in respect of such licenses and the authority by which and the conditions upon which such licenses may be granted, suspended and revoked ;

(*e*) prohibiting the driving of any such vehicle by unlicensed persons ;

(*f*) prohibiting the leaving of vehicles or animals unattended or in the charge of incompetent persons ;

(*g*) the speed at which vehicles or animals may be driven or ridden ;

(*h*) the rule of the road ;

(*i*) the registration of vehicles plying for hire, the fees chargeable in respect of such registration and the carrying of number or name plates on vehicles so registered ;

(*j*) prohibiting the driving or riding of vehicles or animals on footways or other places where their use may be attended with danger to the public ;

(*k*) prohibiting the halting of vehicles or animals at places other than the proper camps or refuges ;

(*l*) the carrying and use on vehicles and animals of a bell or other instrument for giving audible and sufficient warning of their approach or position;

(*m*) the carrying of lights on vehicles between sunset and sunrise and the description of lights to be carried and the position in which they should be placed;

(*n*) the stoppage of vehicles or animals when required by the Police for the regulation of traffic or for other reasonable purpose;

(*o*) the maximum weight or the number of passengers to be carried on each description of vehicle or animal;

(*p*) empowering specified officers to issue notices requiring owners or occupiers of land—

(i) to lop the branches of any trees growing on such land and overhanging the road so as to cause obstruction or danger; and

(ii) to cut or trim any hedges or noxious vegetation, growing on such land which may be considered likely to intercept a view of approaching traffic on the road, or on any side road or other approach thereto; and

(iii) to remove from the road any branches, trimmings and vegetation lopped or cut by such owners or occupiers;

(*q*) imposing on such owners or occupiers of land the duty to comply with such notices within a reasonable time and authorising such officers to lop, cut or trim such trees, hedges and vegetation in case of default;

(*r*) and generally the prevention of obstruction to traffic, preservation of road surface and of annoyance, danger or injury to the public.

(3) All rules made under this section shall be made after previous publication, and when made shall be finally published in the Gazette, and shall come into operation from the date of such final publication.

Penalties.

4. Any breach of any rule made under this Act may on conviction before a Magistrate, be punished with fine which may extend to fifty rupees or in the case of a

second or subsequent conviction to two hundred rupees. All such fines shall be recovered in the manner prescribed in the Code of Criminal Procedure, 1904.

Arrest of offenders before warrant.

5. (1) Any police officer or any other officer appointed by the Government in this behalf may, without an order from a Magistrate and without a warrant, arrest any person committing in his view a breach of any rule made under section 3, if he refuses on demand of such officer to give his name and residence or gives a name or residence which such officer has reason to believe to be false, or, if, not being a resident of Mysore, he fails to furnish sufficient security for his appearance when required.

(2) When any such arrest has been made, the provisions of section 57, sub-sections (2) and (3) and sections 60 to 63, 66, and 67 of the Code of Criminal Procedure, 1904, shall apply.

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